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PROPERTY CONTROL
 HISTORY, POLICIES, PRACTICES AND PROCEDURES
 OF THE
 UNITED STATES AREA OF CONTROL, GERMANY

REPORT

by

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SUMMARY

The two fundamental problems of the Property Control Program have been: first, that of locating, placing under custody, safeguarding and administering various specified categories of property; and, second, making decisions providing for ultimate disposition of properties and expediting the release thereof. In accordance with Military Government policies, directives, laws and other measures, every effort was made to release as many properties from control as possible.

In line with Military Government policy of transferring greater responsibility to German governmental authorities, Property Control responsibility for custody and administration, as provided for in Military Government Regulation Title 17, was transferred to German Land governments during the latter half of 1946. Special safeguards were provided for properties of United Nations and neutral owners and those properties in the "duress" categories. The German agencies were under the direct supervision of Military Government authorities.

The magnitude of the task performed by Property Control is best illustrated by a few statistics. During the entire Property Control Program 153,749 properties, with an estimated value of 13,745,000,000 Reichsmarks, were taken into custody. 115,501 properties, valued at 11,304,000,000 Reichsmarks, have gradually been returned to their rightful owners or successors in interest. The peak was reached on 28 February 1948 when 107,146 properties, valued at 11,667,000,000 Reichsmarks, were held under control. Custodian Cash Balances and Property Control Central Cash Accounts amounted to approximately 1,500,000,000 Reichsmarks as of 31 August 1946. These figures do not include installations used by occupation forces, works of art and cultural objects, foreign exchange assets, and other properties which were blocked but not under Property Control. As of 1 July 1949, there remained under control 38,258 properties valued at 2,441,000,000 Reichsmarks, which for the most part cannot be released from control until a final determination has been made, either by the Denazification Tribunals with respect to the 3,391 properties belonging to Nazis, or the Restitution Authorities under Military Government Law No. 59 with respect to the 30,333 properties in the "duress" category. Most of the few remaining properties cannot be released under present Military Government policy.

In the early part of 1946 the Military Government Property Control Organization at OMGUS and Land Level consisted of 298 U. S. personnel, supported by 2,176 German civilians. With the transfer of certain responsibilities to German authorities in the latter half of 1946 Military Government personnel was gradually reduced and a large part of the burden was assumed by the German Property Control Offices at Land Level, which consisted of 4 LCAH 1/ Offices and 240 German Kreis Property Control Agencies employing 3,053 German civilians. These figures do not, of course, include the 80,000 odd Property Control custodians. As of 1 July 1949, the German Agencies had in their employ approximately 2,500 people. As of 1 July 1949, there were 40 U. S. civilians engaged in Property Control activities at both OMGUS and Land Level, assisted by approximately 300 German civilians.

In June 1947 the emphasis changed from the first phase (that of locating and adequately protecting properties) to implementing and carrying out the second phase (release of properties from control). In June 1947 a program was announced providing for the decontrol of properties belonging to citizens of United Nations and neutral nations (except Spain and Portugal). This program was later extended to former enemy nations with whom peace treaties have been signed.

1/ Land Civilian Agency Head - The Senior German Property Control Officer at Land Level.

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Control Council Directive No. 50 and Military Government Law No. 58 have established the procedures whereby property of Nazi organizations are being transferred to Land governments or to certain democratic organizations. The properties of individual Nazis are being released from control in accordance with existing denazification procedures. Properties of the Reich were disposed of in accordance with provisions of Military Government Law No. 19. "Duress" properties will be held pending final adjudication of the case as provided for in Military Government Law No. 59. Properties taken under control as "duress" properties for which no claim has been filed will be released from control pursuant to Military Government directives to be issued in the future. Practically all properties with the exception of "duress" ~~and duress~~ properties were released from control during the first six months of 1949.

On 1 July 1949 Military Government Property Control Offices were completely liquidated. Residual Property Control duties were in large part transferred to a Central German Property Control Coordinating Committee composed of the 4 LCAHs. Those Property Control functions which could not be transferred to the Central German Property Control Coordinating Committee were made the responsibility of the Military Governor's Economics Adviser.

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INTRODUCTION

In 1942, there was established in England an organization known as the United States Group Control Council. It was composed of various Divisions corresponding to the Divisions of Military Government and the purpose was to plan the functions of the occupation of Germany. Within the USGCC was a Division called "Reparations, Deliveries and Restitutions (RD&R)", which included the functions which Property Control assumes today. After the capitulation of Germany, RD&R Division was split into the Restitution Branch, the Reparation Branch, and Property Control, which was first formed as a special Branch of the Economics Division, but which was later taken over by the Finance Division. In March 1948, the Finance Division was dissolved, and the Property Control Branch became a Branch of a new Division known as the Property Division.

Property Control measures were aimed at the denazification and demilitarization of Germany. Property Control custody was used to remove designated persons and organizations from positions of importance and power and render them harmless to the anticipated program of democratization. Custody was necessary to protect certain properties pending ultimate disposition.

The basic authority for the control of property in Germany is contained in JCS 1067/6 (para 48 c) 1/ which directs the Zone Commander to "impound or block" certain specified categories of property. They include the properties of the following persons and organizations:

The German Reich and its Political Subdivisions, Agencies or Instrumentalities;

The Nazi Party and its Affiliated Organizations, its Officials, Leading Members and Supporters;

Absentee Owners of Non-German Nationality, including United Nations and Neutral Governments and Germans Outside of Germany.

The Zone Commander was also required to block all property which was transferred under duress or wrongful acts of confiscation, disposition or spoliation, and works of art or cultural material of value or importance, regardless of its ownership.

As the U. S. Army entered Germany, Military Government Law No. 52 was issued. The provisions of this Law were substantially the same as the provisions of JCS 1067/6. It declares subject to seizure or possession of title, direction, management, supervision or otherwise, all categories of properties enumerated in JCS 1067/6. Law No. 52 2/ does not require Military Government to take control over the property. It simply establishes the right of Military Government to do so. The only law which requires that control be established over any such property is Control Council Law No. 2 3/ which is similar in terms to the provisions of JCS 1067/6 (para 6 d) which directs that all property owned or controlled by the Nazi party, its formations, affiliated associations and supervising organizations be taken under Military Government control "pending a decision by the Control Council or higher authority as to its ultimate disposition".

1/ See Annex II
2/ See Annex VIII
3/ See Annex XV

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Property Control in the U. S. Area of Control, Germany became effective with the posting of Military Government Law No. 52 as the armies moved through Germany, starting in Aachen on 18 September 1944. Property Control was, at that time, fully administered by the Military. As stated in the USFET Directive of 7 July 1945 ^{1/} which later served as basis for Military Government Regulation Title 17 (MGR 17), ^{2/} all properties subject to control were blocked and frozen as a necessary step toward the enforcement of the policy of denazification, the principles of demilitarization and de-industrialization, and the program of relief, restitution and reparations.

The operating procedure and mechanics of Property Control were well stated in the Handbook for Military Government (Rev. 1, 20 December 1944). Pertinent sections are:

(384.) In exercising Property Control functions, the role of the Military Government Officer is that of a Military Government official, not that of a receiver or trustee in the British or American sense. He should do what is reasonable in the circumstances. No personal liability will attach to any Military Government Officer for acts which are performed, permitted or omitted, in good faith, relative to the control or administration of property.

(385.) Military Government Officers are not authorized to submit to the jurisdiction of the local courts in proceedings in which Military Government or Military Government Officers are, in effect, defendants. Further instructions will be issued in regard to this matter.

(386.) Military Government Officers will arrange for the receipt of reports and returns required from local officials, organizations and persons relating to property under control.

(387.) Military Government Officers will at all times gather and forward to the Deputy Chief Property Control Officer all local information relevant to the classes of property subject to Property Control. Of particular interest will be reports of cloaking activities used to disguise property acquired through duress or wrongful acts of dispossession or spoliation, or to conceal holdings of the Nazi Party and prominent members and supporters thereof.

(388.) In the event it is necessary to use force to take possession of any property or to exclude any person from it, and sufficient assistance from Military Government Public Safety Officers cannot be obtained, a request should be made for the necessary aid to the appropriate Military Commander.

(389.) In the administration and operation of property taken under control, Military Government Officers should not, except after consultation with the appropriate Property Control Officer, lease or repair such property, nor employ agents and fix and pay compensation for any of the foregoing.

(390.) Military Government does not ordinarily take title to property taken into control. Sales may be made on behalf of the owner only if specially ordered or in cases of perishables.

(391.) Military Government Officers will not enter into a contract for a term in excess of 30 days, without approval from the Chief Property Control Officer.

(392.) Property should be entered on the Property Record (MG/PC/2) as soon as taken into control. The Record of Property Transactions (MG/PC/3) will be maintained by Military Government Officers or Military Government Detachments and will recite all facts and transactions that

^{1/} See Annex III
^{2/} See Annex VI

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affect the property, its condition and history. Until property is entered on the Property Record by the Military Government Officer and the Notice of Custody (MG/PC/1) is filed, it is not completely taken into control. It may therefore be released to its owner or his representatives without formality even though protective notices have been posted on it or have been delivered to its occupants. (See F & PC Technical Manual.)

(393.) When a going concern is taken over, Military Government Officers should consult with any Military Government functional specialist officers interested in the functioning of such concern. When a going concern is taken over, Military Government Officers will give to the person or persons in charge Property Control Letter of Instruction No. 1 (MG/PCO/IBE/1). (See F & PC Technical Manual.)

(394.) Operating agents and custodians shall be instructed to keep proper and appropriate accounts so that reports and accounts may be rendered to owners or to higher authorities. Where Military Government takes control of any business or undertaking which already has a satisfactory accounting system in operation, the existing accounting system will be continued. If the Military Government Officer finds an inadequate accounting system in an undertaking under control, a report thereof will be made to the appropriate Property Control Officer.

(395.) Funds received or produced by the operation of the property may be retained in such accounts or depositories as are maintained on its behalf, subject to directions of the appropriate Property Control Officer. Large accumulations of funds by such undertakings will be reported to the appropriate Property Control Officer.

(396.) Custodians appointed to operate any property shall have no power, without the consent of higher authority, to alter the nature of a business, or to sell, liquidate, incur or obligate the property or any part of it beyond the ordinary course of business.

(397.) Fees paid to custodians, and allowances made to owners or their dependents, out of such properties may be continued, but may not be reduced or increased without prior approval from the Chief Property Control Officer. When paid they shall stand as a charge against the property and its owner.

(398.) Under no circumstances will persons who have been removed from any office or position because of the Supreme Commander's policy of removal of active Nazis and ardent Nazi sympathizers be employed or used in any other way in connection with the Property Control Program of Military Government.

The report which follows is a brief history of the Property Control Program of the U. S. Military Government as administered in the U. S. Area of Control, Germany. It indicates the policies, procedures and practices followed, and the special steps taken to protect the properties under control and return them to their rightful owners, or ultimate recipients. In the annexes are cited the basic authorities and pertinent legislation which formed the basis of the Property Control Program.

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FUNCTIONING OF PROPERTY CONTROL

In all historic occupations prior to World War II, Property Control was generally limited to enemy war materials confiscated as booty, and certain other limited responsibilities with respect to purely public properties. There was, therefore, little or no precedent for exercising controls over all kinds of property in Germany.

"Property Control", as we know it today, has a special meaning in Military Government. It denotes the establishment and maintenance of control, pending ultimate disposition over specified categories of property of persons and organizations described and defined in Military Government Law No. 52 ^{1/} and the organizations set forth in the Appendix to Control Council Law No. 2, ^{2/} The control exercised in a given case varies; it includes use, possession, custody, occupancy, protection, maintenance, conservation, and supervision.

The major categories of properties are:

- Properties of United Nations, neutral, and other absentee owners,
- Properties of the former German Reich, German states, etc.,
- Properties of NSDAP members (Nazi Party members),
- Properties of former Nazi Party organizations,
- Properties of I. G. Farben,
- Properties claimed by persons who lost the property under duress.

The mission of Property Control was to locate properties of certain categories indicated in Military Government Law No. 52, take them into custody, preserve them, operate them in most instances, and dispose of them in accordance with existing Military Government regulations, laws, directives, etc.

LOCATING PROPERTIES TO BE TAKEN INTO CUSTODY

An examination of properties falling into the categories specified in Military Government Law No. 52 reveals that they have ~~only one thing~~ in common - they are all located in Germany.

Based upon information obtained by exploitation of numerous records, lists, etc., and also based upon decisions made by Property Control Officers in the field, properties were taken into custody.

Use of U. S. Treasury Department Records in Locating Properties

The Foreign Funds Control Division, U. S. Treasury Department, made available to Property Control summaries of TFR-500 reports of U. S. owned or controlled property within Germany. These lists proved most helpful as "check lists" in connection with the Property Control Program.

Lists Forwarded by American Consulate General

The American Consulate General sent lists of hundreds of persons who owned or claimed properties and whose "requests for investigations of properties in Germany" were forwarded to the Property Controllers in the field for investigation, reporting and taking into custody if warranted.

Direct Inquiries from Owners

Inquiries were received at Property Control Offices at the rate of between 500 and 1,000 per month from owners of German property from all parts of the world, requesting information concerning the status of their properties, and requesting protection of their personal and real property located in the U. S. Area of Control, Germany. Such letters were acknowledged, field investigations made, Property Control action taken where warranted, and reports were rendered to the owners.

^{1/} See Annex VIII.

^{2/} See Annex XV.

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Censorship Intercepts

Data obtained from Censorship Intercepts also proved most helpful in locating and identifying properties subject to control.

Use of German Officials

Property Control Officers in the field were directed to instruct German District officials to draw up lists of persons who came under Military Government Law No. 52. These lists were then checked and Property Control action taken where appropriate. The services of suitable and politically acceptable German officials or civilians were also obtained to furnish technical aid in performing the Property Control function. These Germans were closely supervised by the Military Government Officers or the Property Control Officers and their work included locating all Grundbuecher (Land Register); Handelsregister (Commerce Register); Einkommensteuerakten (Income Tax files); and other property records in the Kreis. It was the duty of these German officials to search out and trace title in records above listed, and to aid in making comprehensive searches and surveys on all properties of interest to Property Control.

Micro-film records of the Reichskommissar's Office also proved extremely valuable in locating properties of United Nations' nationals.

German Control of Enemy Property - The Reichskommissar's Office 1/

During the war years, 1939 to 1945, the German Government controlled the property of enemy aliens through the Reich Commissioner for the Handling of Enemy Property (Reichskommissar fuer die Behandlung Feindlichen Vermoegens). In the definition of enemy alien property the word "enemy" was construed to mean enemy states, nationals thereof (either natural persons or legal entities) having either their domicile or main branch in the territory of any enemy state or incorporated under the laws of an enemy state, persons having their habitual residence in an enemy state, and all persons other than those previously mentioned in respect to any enterprise which they may have conducted from an enemy state.

Polish and Czechoslovakian properties were placed in special categories, and the property was ordinarily administered by the German Property Control Officer of the German Military Government Detachment for the local area. This Control Officer was not only responsible to the German Army Command, but he was also subject to some supervision by the protectorate officer, both in Poland and in Czechoslovakia.

The Reichskommissar's Office attempted to operate within the framework of the German law, and there appeared to be a strict interpretation of the German Alien Property Law. The Reichskommissar apparently took the position that he was a trustee for the property of the enemy alien - that he must administer it for the benefit of the owner - that at the termination of the war, or sometime thereafter, he would relinquish control and the property would be returned to the owner with a proper accounting.

A custodian (Verwalter) of an individual property or business could be appointed by the Reichskommissar, of which there was one at each Oberlandesgericht. There was no regular pool or register of available custodians; however, the type of man usually chosen was a German director or manager of the firm, a lawyer, or other responsible individual. The custodian, once appointed, made a report to the Reichskommissar once every six months. On the appointment of a custodian by the Reichskommissar, his name was entered in the Handelsregister. No entry, however, was usually made in the Grundbuch with respect to properties placed under a custodian, as his appointment was only considered temporary.

1/ German Alien Property Custodian Office.

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The Curia-Absentis Law

This is an old law which provides for the appointment by the Amtsgerichtsrat of a Pflager (custodian) of a property or concern of which the owner is absent. The German name for this procedure is "Abwesenheitspflegerschaft". Once appointed the Pflager, like the Verwalter in the case of enemy property, was permitted to carry on all normal transactions in connection with the property. Periodical reports (usually every six months) were made to the Amtsgericht. Where a firm or company was involved, the name of the Pflager was entered in the Handelsregister.

Powers of Custodians to Charge Property

Neither the Verwalter nor the Pflager were permitted to mortgage landed property on their own initiative, but with the approval of the Reichskommissar (in the case of the Verwalter), he could execute a mortgage: in the case of a Pflager, the consent of the Amtsgericht was necessary (e.g., to secure a mortgage from a bank required to finance essential repairs) and such mortgages were then registered against the property in the Grundbuch.

The Reich Ministry of Economics (Reichswirtschaftsministerium), on the other hand, representing the Nazi Party interests, took the attitude that enemy alien property was forfeited to the state, and, through the agencies of the SD (Sicherheitsdienst - Security Service) and the Gestapo, much property was seized and confiscated which should have, under German law, been administered by the Reichskommissar. Investigations disclosed that the Reichskommissar's Office made an attempt to appoint trained, competent, and honest administrators for alien property. However, the Security Police were charged with screening the prospective administrators for their "political reliability", and no appointment could be made without approval from that office.

The property of enemy aliens was uncovered by returns from local tax-gathering agencies. It made no difference whether or not the Reichskommissar took formal custody of the property; the property was listed in the Reichskommissar's Office files and it was subject to custody at any time. Records as to properties taken into custody and as to those in which "enemy" interest was insufficient to justify appointment of a custodian were centralized into two main divisions of the Reichskommissar's Office. Real property, patents, and shipping were in one division, while the records as to all other properties, such as industrial and financial enterprise, were in another division. No attempt was made in either division to execute direction over the operation of any properties other than to formulate policy, nominate custodians, and direct the removal of custodians unsatisfactory for any reason.

By 1 March 1945, the Reichskommissar's Office had taken under administration property in excess of RM 3,500,000,000.

U. S. Property Administered by the German Reichskommissar's Office 1/ as of 1 March 1945

Industry and Commerce	RM 758,277,100
Banking and Insurance	" 92,119,353
Miscellaneous	" 31,803,500
Real Estate	" 62,676,152
Total	RM 944,876,105

1/ German Alien Property Custodian.

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U. S. Property Not Administered by German Reichskommissar's Office
as of 1 March 1945

Industry and Commerce	RM 126,098,406
Banking and Insurance	" 130,852
Miscellaneous	" 127,965,240
Real Estate	" 12,333,528
Total	RM 266,528,026

Ordinarily movables were not taken into custody unless they were of exceptional value or were associated with other property under custody. In the case of real estate, the minimum value was first set at RM 10,000 before custody would be taken, but because of the pressure of work in the Reichskommissar's Office the minimum valuation was later set at RM 60,000. In general, business enterprises in which the enemy interest was less than 50 percent would not be taken into custody. However, in many cases where the business was large or important the 50 percent interest rule was disregarded.

Use of Reichskommissar's Records by U. S. Property Control Authorities

From the above, it can be seen how important it was to scrutinize carefully the records of the Reichskommissar's Office. From those records, lists of properties were prepared for distribution to Property Control Officers to assist them in the location of actual properties. First priority was given to the preparation of lists of properties in which United Nations' interest exceeded 50 percent. This was followed by the assembly of all minority interests in German property. A more difficult task was that of tracing properties which had been transferred under questionable circumstances.

During the early period of Property Control operations, letters of inquiry from nationals of United Nations and neutral nations continued to pour in. On the basis of these letters and other information, properties in this category were taken into custody.

TAKING PROPERTIES INTO CUSTODY - GENERAL PLAN

Property Control Officers were assigned to perform certain supervisory, advisory and local functions in connection with Property Control. In the initial period, Property Control Officers were assigned to areas (the level of area depending upon the number of P.C.Os available) who acted as advisers and consultants to Military Government Officers. Where sufficient P.C.Os were available in this early period, they were also immediately assigned to Stadtkreise to perform local Property Control functions. Where possible, P.C.Os were assigned to take over all local Property Control functions exercised by Military Government Officers in the initial period. All supervisory functions by P.C.Os were in accordance with directions from higher authority. During the initial period all records, reports, etc., were forwarded by Property Control Officers through technical channels to the Deputy Chief, Property Control Officer, who maintained centralized files of property and essential accounting records.

Properties were taken into custody when necessary to safeguard the property. In other cases, where properties were not taken into custody, it was made clear to any interested persons that properties subject to Military Government Law No. 52, whether or not taken into custody, were blocked by virtue of Military Government Law No. 52, Article I. Properties were also taken into custody to assure the continued operation of the property. This was of particular importance, where certain properties were employed in the production of articles useful to the Armed Forces of the United Nations, or essential for civilian consumption. Continued operation was, in many cases, also desirable to prevent increased unemployment.

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Whenever it was necessary to establish control over property, Property Control Letter of Instruction No. 1 was issued and posted. This letter read in part as follows:

"TO:

and all officials and employees of said business enterprise.

1. This business enterprise is one of those taken into control by Military Government pursuant to the Blocking and Control of Property Law (No. 52), which has been published and is again called to your attention. You are, of course, obliged to obey all other laws and orders or instructions having the effect of law, both of Military Government and Germany, applicable to the conduct of this business.

2. Unless otherwise directed or prohibited, transactions ordinarily incidental to the normal conduct of business activity in Germany may be engaged in by this enterprise. The responsibility for the conduct and operation of such business enterprise rests entirely in it and all officials and employees connected with it. No responsibility for operations as a going concern attaches to Military Government by reason of the inclusion of this business enterprise as one of those taken into control by Military Government."

Inventories of movable items were taken, followed later by a more complete inventory and investigation, in order to facilitate subsequent reporting pertaining to the property.

Appointment of Custodians

When custody was taken, a custodian (an approved German) was appointed and made responsible for operating and preserving the assets of the property. Numerous difficulties were experienced in the early days of Property Control in getting suitable custodians for operating businesses. Custodians were, for the most part, appointed from a list selected by the Burgomeister, and only appointed after being certified by C.I.C. Owners of properties were, in many instances, asked to recommend custodians. Where such recommendations were made, they were immediately checked and approved if clear of Nazi affiliations. In the latter part of 1946, when responsibility for custody and administration of properties was transferred to German authorities, the responsibility, in the first instance, for the appointment of custodians was also transferred to said authorities.

Appointment of Zonal Custodians

Whenever it appeared that the centralized administration of an operating property having several branches throughout the U. S. Area of Control would result in greater over-all efficiency, it was made the responsibility of the Land Property Control Chief (in the case of the United Nations and neutral properties) in whose Land the main office or most important unit was located, to take the necessary steps in consultation with other Land Property Control Chiefs, to appoint a zonal custodian for the entire enterprise. The zonal custodian had the same authority with respect to the enterprise as any other custodian appointed pursuant to Military Government Law No. 52. He was considered the "general manager". He could not, however, remove or hire sub-custodians without the concurrence of the appropriate Land Property Control Chief. Zonal custodians were furnished copies of: Military Government regulations, Title 17; Property Control Accounting and Auditing Procedures, pertinent Property Control circulars; etc., and instructed to administer the property accordingly. Necessary explanations and instructions to zonal custodians were given by responsible Land Military Government Property Control officials. The zonal custodian rendered consolidated reports for the entire enterprise. A similar procedure, to a very limited degree, was used in a case of German properties under control. In such instances, however, recommendations of the German Land Civilian Agency Heads also required approval of Military Government Decartelization authorities.

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Appointment of Inter-Zonal Custodians

The desirability of having inter-zonal custodians appointed for United Nations and neutral properties having branches in more than one Zone soon became apparent. After consultation with British authorities, a procedure was established whereby such custodians could be appointed with respect to properties lying in the combined US/UK Zones. It was agreed that there would be a zonal custodian in each of the two Zones and that the zonal custodian in the Zone having the main office would act as inter-zonal custodian. In the absence of the main office being located in either Zone, the zonal custodian of the Zone having the most important unit of the enterprise became the inter-zonal custodian. Custodians were appointed by local Property Control Officers for the branches or subsidiaries of the parent firm. Where branches existed in more than one Land in the Zone and the need for a zonal custodian was apparent, such custodians were appointed. Individual reports of custodians were not required where a zonal custodian existed. Zonal custodians consolidated the reports in their Zone and then forwarded said zonal report through the offices of the appropriate Military Government to the inter-zonal custodian for further consolidation. With respect to management policies, zonal custodians were permitted to communicate with each other. However, no major action could be taken by zonal custodians on instructions from the inter-zonal custodian without first obtaining the approval of the appropriate Military Government Property Control authorities. The inter-zonal custodian had to be approved by both the U. S. and U. K. Senior Property Control authorities. By this procedure a more uniform and efficient management was obtained.

An attempt was made to arrange a similar procedure with French and Russian authorities for their respective Zones. However, no progress was made with Russian authorities, and very limited progress made with French authorities. In a few instances, special arrangements were made with French Property Control officials.

Use of German Property Control Officials as Custodians

As a rule, German Property Control officials were not permitted to act as custodians. This rule, however, was later modified in special cases where necessity for modification was proven and approval of the appropriate Military Government Land Property Control Chief obtained. The only exceptions made were in cases where numerous small properties were under control in a particular Kreis, the properties did not require the services of a full time custodian, and were not large enough to pay for such services. In such instances, the CAH (Civilian Agency Head) was appointed custodian for a group of small properties and paid a minimum fee.

Removal of Custodians

As indicated in the foregoing pages, custodians had to be impartial, politically acceptable, efficient, honest and cooperative. Once appointed, it was the policy of Military Government not to remove them providing they had the above mentioned qualifications. It follows, that whenever it was discovered that custodians did not measure up to the standards indicated above, they could be removed for cause: in the case of United Nations and neutral properties, on instructions and approval of the Military Government Land Property Control Chief; in the case of German properties, upon recommendation of the German Land Property Control authorities.

SUPERVISION OF PROPERTIES UNDER CONTROL

Having located the property and taken it into custody, it was now necessary to establish a system of accounts and audits so that supervising authorities would be in a position to measure the efficiency of operations by various custodians, and to take prompt and effective remedial action where required. This was all, of course, in the interest of preserving the property until it could be transferred to the ultimate recipient without substantial depletion of assets.

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Decentralization, Centralization and Decentralization of the Property Control Accounting System.

During the month of September 1945, the Property Control accounting system was changed from a decentralized to a centralized system. Originally it was planned to maintain the Property Control records made by Military Government Property Control Officers at Regional Military Government level. This plan was actually put into operation and worked with a reasonable degree of success for three months. Due to the redeployment of numerous well trained Property Control Officers, it was thought advisable, by Property Control authorities at that time, to consolidate all Property Control records in one office; namely, that of the Chief Property Control Officer, OMGUS. After a study of the system used by the Alien Property Custodian, a revision of the decentralized system was considered advantageous. Accordingly various detachments were instructed to forward to Property Control Headquarters all Property Control records at Stadt, Landkreis and Regierungsbezirk level. Henceforth, Regional Property Control Offices were instructed to retain one copy of various reports for their files, to forward directly by air courier one copy of the data and an additional copy was to be forwarded through ordinary channels.

It became apparent early in 1946 that the centralized system of accounting was administratively unworkable, cumbersome and impractical. The system devised for transmitting reports failed. The time lag between preparation of reports in the field and receipt by OMGUS was in many instances as much as six months. In fact, at its best only one third of the reports which should have been received were ever received at OMGUS level. Having in mind the transfer of certain Property Control responsibilities to German authorities in the latter half of 1946, a program was instituted providing for the decentralization of the accounting function to Land level. Each Land Property Control Chief was instructed to set up an Accounting Section and to take steps to train German employees so that the transfer of authority could be accomplished with a minimum of confusion. After transfer of responsibility to German authorities, the accounting function became the joint responsibility of the Land Property Control Chief and the German Land Civilian Agency Heads. The benefits of this change became immediately apparent, more reports were received during shorter intervals. Although the time lag remained at approximately three months, substantial improvement was noted, and remedial action, if required, was taken immediately.

From 1 July 1945 until decentralization of the accounting function to Land level in early 1946, no effective auditing program was in operation. In July 1946, a standard form for reporting receipts and disbursements of properties, other than business enterprises, was devised and distributed. In October 1946, standard profit and loss statement and balance sheet forms were devised for trading and manufacturing enterprises. At the same time, directives which prescribed the use, disposition, and review of those standard forms were promulgated. In general, German Land Civilian Agency Heads were made entirely responsible for the reviewing of financial statements on German properties, with overall supervision remaining the function of the Land Property Control Chiefs. The detailed review of financial statements pertaining to properties of United Nations and neutral nationals, however, remained the responsibility of the Land Property Control Chiefs. To promote efficiency the requirement for monthly statements from custodians was discontinued; quarterly and semi-annual statements were substituted. Due to the great dearth of independent public accountants in the various Laender, the timely submission of annual certified statements was extremely difficult. In addition to the fact that numerous public accountants were disqualified because of political unreliability, additional difficulties arose from the fact that public accountants must test check inventories at the year end in order to be able to certify their statements. Most business enterprises have a fiscal period corresponding to the calendar year with the result that the limited number of qualified accountants could not prepare the necessary number of statements on time. It was, therefore, decided to instruct all available public accountants to make test checks of the inventory at the earliest possible time and that unaudited annual statements were to be submitted on the prescribed date. Audited statements for the same year were to be submitted during the following six months. This procedure permitted available accountants to spread their work out and proved most satisfactory.

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To facilitate the review of operating statements submitted, instructions were issued to the Land Property Control Offices to speedily determine those properties operating at a loss and those properties operating at a profit. The volume of reports rendered was tremendous, however, by this device all reports pertaining to property operating at a loss were segregated and given highest priority. Such statements were reviewed and analyzed. Civilian Agency Heads were called upon to explain the causes for the losses and were instructed to take remedial action. Where required, recommendations were made by the Office of the Chief Property Control Officer. In this manner, approximately 25,000 financial reports of individual properties were received and checked during the latter half of 1946 by the Accounts and Audit Section, Office of the Chief Property Control Branch, OMGUS. This does not take into account a much greater volume handled by the various Land Military Government and German Property Control Agencies. Copies of many of these reports were forwarded to owners in allied and neutral countries.

Inspections of Properties Under Control

In addition to reviewing financial statements currently, Land Property Control Chiefs and Land Civilian Agency Heads were required to make an inspection, at least once a year, of each property under control. The scope of such inspection depended upon such factors as:

- Whether it was a business enterprise;
- Whether it submitted correct financial statements currently;
- Whether the property was operating at a loss; etc.

As a result of approximately 3,500 formal inspections of property by field representatives during the first three months of 1948, 54 custodians were recommended for removal. The most prevalent grounds for removal of custodians were: inefficiency; black market activities; political unreliability as indicated by falsification of fragobogen; failure to comply with Military Government directives; embezzlement; illegal sale of assets; and gross negligence. In many instances prosecution of custodians for violations listed above resulted in large fines and prison sentences. It was felt that the inspection program of properties under control was most effective and that actual visitation and physical audit was an excellent means of ascertaining proper management and operation. A routine inspection, for example in Augsburg, indicated that the custodian permitted the owner of the firm to withdraw 50,000 RMs from the firm. This, of course, was contrary to Military Government directives. In addition, it was found that the custodian made a loan of 30,000 RMs to himself, with which he established another business. Fortunately, the Property Controller was able to have the 50,000 RMs returned to the firm, the business purchased with the 30,000 RMs was taken into custody on the "following the assets theory" and the custodian was removed and replaced by an impartial person.

Inspection of German Civilian Agency Offices

Such offices were examined by OMGUS Property Control officials to determine whether the properties under control were properly managed and that records were available, giving adequate details pertaining to operating properties; and whether a systematic inspection of such properties was being made. Business analysts were called upon to submit formal reports pointing out discrepancies, weaknesses, etc., and to make suggestions for corrective action. As a general rule, it was found that the Civilian Agency Head Offices were efficiently managed and that standard operating procedures pertaining to routing of mail, reports, checking of financial statements, etc., were being followed. It also appeared that all CAH Offices maintained complete records pertaining to custodians. Considering the fact that many CAH Offices lacked essential equipment, such as typewriters, adding machines, paper, transportation, etc., an excellent job was done. In addition, in the winters of 1946 and 1947 many of those offices had absolutely no heat, and work could only be performed on a part

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time basis. During these two years many CAH Offices had no electrical fixtures and worked in overcrowded quarters. The difficulties which were overcome during this period clearly indicate the seriousness with which most of the Civilian Agency Heads took their work, and the wisdom of transferring Property Control responsibilities to local authorities.

Land Property Control Chiefs were also instructed to make periodical inspections of all German Civilian Agency Offices of which there were approximately 240 (1 in each Kreis). These inspections proved extremely helpful. Such questions as:

- Sufficiency of properly trained personnel;
- Adequacy of office equipment and space;
- Review of administrative policies and procedures were discussed;
- Files pertaining to custodians were reviewed;
- CAH accounting procedures were checked to ascertain that proper tickler systems were being used to assure timely submission of reports;
- Files were checked to see if proper approvals were obtained before extraordinary expenditures were incurred by custodians.

In short the entire administration of the CAH Office was reviewed and recommendations made where required. A report of the findings of the Military Government Officer was forwarded to the appropriate German Land Civilian Agency Head for his information and necessary action, if any.

Treatment of Surplus Cash

An additional safeguard was provided in the treatment of cash held by various custodians in excess of their normal needs. Instructions were issued providing that all custodians were to transfer to Central Cash Accounts under the direction of the Land Property Control Chief (in cases of United Nations and neutral properties) and the Land Civilian Agency Head (in cases of German properties) all cash exceeding six months normal cash needs of the business. The provision was also made that in the event that the custodian required such cash for exceptional expenditures, application was to be made to either the LPPC or the LCAH as the case may be.

Installation of Hollerith System in LCAH Offices

To assist in the timely reporting of Property Control transactions, the Hollerith System was installed in the various LCAH Offices. This system was invaluable in the speedy compilation of lists of properties under control. The advantages of such a system in the saving of time and expense are obvious.

RECOMMENDATIONS OF THE PROPERTY DISPOSITION BOARD

On 26 March 1946, a report was issued by a previously appointed Military Government "Property Disposition Board", which surveyed the entire situation and made numerous specific proposals for the orderly disposition of properties under control. The report of the Property Disposition Board was concerned with ultimate disposition of categories of properties, regardless of the agency responsible for operational control. The properties included industrial plants, housing projects, bank accounts, gold bullion, jewels, paintings, insurance companies, radio stations, newspapers, publishing houses, and income derived from some of these units. With the minor exception stated elsewhere in this history, Military Government regulations existing in March 1946 did not authorize the release of any property from control except on account of reparations and restitutions, for use by the occupying powers, or by order of higher headquarters under limited licensing provisions.

After a careful study of the problem, Military Government directed the Laenderrat to develop plans for assuming custody and supervision of most of the property under Military Government control (excluding, however, properties of the Reichsbahn, the Reichspost, and the Reichsbank, external assets,

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foreign exchange assets, and I. G. Farben holdings). These plans were completed, approved by Military Government, and put into effect by the middle of June 1946, when most properties under control were transferred to German authorities for custody and administration, subject to Military Government for policy direction. Properties belonging to any United Nations and neutral nationals were still subject to special control measures and supervision by Military Government authorities to insure full protection of such countries' interests in Germany.

It was the policy of the occupation to maintain necessary controls and at the same time to place responsibility upon the German people and approved German agencies and institutions to the greatest extent possible.

The problem was mainly one of interim custody pending the time when the individual owners or ultimate recipients would be able to manage their properties. In the case of U. S. nationals, the U. S. "Trading with the Enemy Act" and, with respect to all absentee owners, the existing travel and communications restrictions presented obstacles. The Property Disposition Board recommended that responsibility for protecting the property should be placed upon the Laender, that they should be required to maintain complete records of such properties, and that Military Government should provide the necessary inspection and supervisory machinery. Pending the formation of a Central German Government, it was felt that Military Government must continue to reply to United Nations nationals who requested information pertaining to the condition of their property in the U. S. Zone.

TRANSFER OF PROPERTY CONTROL RESPONSIBILITY TO GERMAN AUTHORITIES

Ever since 1 November 1945, Property Control Officials had been working on a plan providing for the transfer of certain property control responsibilities to German authorities. In line with Military Government policy and the recommendation of the Property Disposition Board, the first step was taken under a Directive dated 17 May 1946 and entitled "Transfer of Property Control Responsibilities in Greater Hesse and Wuerttemberg-Baden to Land Ministers President." This Directive authorized and directed the transfer to the respective Ministers President of responsibility for custody and administration of all property under control as provided for in MGR Title 17. 1/ In addition, responsibility for the program of taking into custody and the administration of property, as was at that time performed by Military Government under MGR Title 17, was also to be assumed by German authorities.

It should be pointed out that this program relates only to custody and administration; disposition of property, except as authorized by Title 17, also had to await Military Government authority. In addition, safeguards and certain responsibilities were retained by Military Government Land Offices and the Office of the Chief, Property Control Branch, in matters pertaining to properties of United Nations and neutral owners and those properties in the duress category. For example, leases, custodian contracts, certain extraordinary expenditures, required the approval of the Land Property Control Chief.

In the latter months of 1946, similar responsibility was transferred to German Property Control authorities in Bavaria and Bremen.

The task of transferring the numerous files from Military Government custody to the various Land offices was completed in April 1947. Likewise, the final step was taken in the program of decentralization of the Property Control accounting functions. After April 1947, the only accounting records of properties under control which continued to be maintained by the Office of the Chief of the Property Control Branch were those of properties under control in Berlin Sector.

1/ See Annex VI.

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Another step in line with the policy of decentralization of the Property Control functions and as a result of the transfer of Property Control responsibility to German authorities was the method of handling cash belonging to properties under control. Under the centralized control in effect prior to May 1946, i.e., before transfer of operational responsibility to German Civilian Agencies, all surplus cash of properties was transferred to the Frankfurt account under the control of the Chief, Property Control Branch. All such cash was returned early in 1947 to the Laender in which such funds originated. It was deposited, under the decentralization program, in central cash accounts under the control of the Land Civilian Agency Heads (German Authority) and Land Property Control Chiefs (U. S. Property Control Authorities), depending upon whether the cash originated from German properties or United Nations and neutral properties respectively. The amount of cash returned to the Laender early in 1947 was in excess of RM 60,000,000.

LIQUIDATION PROGRAM

On 26 June 1948, a program was approved providing for the complete liquidation by 1 July 1949 of the Property Control and External Assets Branch, Property Division, OMGUS, and the Land Property Control Offices.

On 1 June 1948, there were 95,780 units of property under control with an estimated value of 10,675,374,141 marks. Included in these figures are 27,711 units of duress properties with an estimated value of 1,234,259,913 marks. With respect to duress properties final disposition could not be made until final adjudication of the case pending before the Restitution authorities as provided for under Military Government Law No. 59. ^{1/} It was, therefore, the primary purpose of the Liquidation Program to release from control and return to the German Economy, during the one year period, all other properties; namely, 65,785 units with an estimated value of approximately 9,500,000,000 marks. The program briefly provided for an all out effort and accelerated pace under existing programs providing for disposition of the various categories of property and the devising and promulgation of new programs where required.

The numerous steps necessary to accomplish the desired result are covered elsewhere in this report under the respective categories. Suffice to say, at this point, that the program was successful as is illustrated by the following statistics:

PROPERTIES SUBJECT TO DISPOSITION UNDER THE LIQUIDATION PROGRAM

Reason for Control	Total 1 June 1948		Total 1 July 1949	
	Number of Units	Estimated Value - RM	Number of Units	Estimated Value - RM
NSDAP Members, etc	39,789	2,627,930,687	3,391	391,595,570
United Nations, etc.	14,530	1,678,633,416	3,048	223,230,092
External Loot	1,431	25,052,821	598	16,778,605
NSDAP Organizations	4,553	642,505,158	346	268,926,219
German State	3,987	3,127,140,884	137	289,732,947
Former IG Farben	69	350,160,961	--	--
Miscellaneous	1,426	474,394,188	405	214,743,012
Unclassified in Law 52	*	515,296,113	*	50,157,170
Total	65,785	9,441,114,228	7,925	1,455,163,615

*Units not listed as they are included in above figures.

^{1/} See Annex XII

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The Liquidation Program also provided that numerous responsibilities of the Property Control and External Assets Branch, Property Division, OMGUS, be transferred to a Central German Property Control Agency. Such an Agency has been established in Munich; the directorate of which is composed of the four LCAHs in the U. S. Zone. It is their responsibility to promote uniformity of practice in the four Laender, to make recommendations to Military Government, and, in general, to continue existing Property Control policies as indicated in MGR Title 17. Request for information pertaining to properties under control, or which were under control, are to be addressed to this organization. Military Government Property Control Offices at OMGUS and Land levels have been liquidated. A small group of property specialists, as of 1 July 1949, is attached to the Office of the Economics Adviser. It is the responsibility of this group to generally supervise the Internal Restitution Program and to review recommendations pertaining to Property Control matters made by the German Zonal Agency.

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MANAGEMENT OF PROPERTIES UNDER CONTROL

With certain exceptions, business enterprises under control were permitted to engage in all transactions ordinarily incidental to the normal conduct of business within occupied Germany. Duly appointed custodians were responsible for the management of such properties.

Payment of Pre-Surrender Debts and Taxes by Enterprises under Control

Immediately subsequent to the posting of Military Government Law No. 52 ^{1/} and Control Council Laws No. 2 ^{2/} and 9 ^{3/}, the question arose as to whether or not pre-surrender debts of enterprises under Military Government control should be paid. In the early phases of the occupation various uncertainties existed such as:

- The existence or non-existence of bank accounts;
- Loss of records and general uncertainty as to solvency;
- Lack of safeguards against assets being siphoned out of enterprises through the payment of illegitimate debts.

These conditions made the policy of deferments of payments a practical necessity.

After more than one year from the beginning of the occupation, it became increasingly apparent that non-payment of pre-surrender debts and, in some instances, taxes, contributed to economic stagnation. Numerous creditors were particularly hard hit through their inability to collect what would normally be current receivables. Municipalities, in many instances, were deprived of large tax payments. Most of the reasons for the deferment of debt payments no longer existed in June 1946. It was now possible to determine the status of cash and bank accounts; determine the financial condition of enterprises; block payments and funds where required and to establish the validity of certain claims and debts. The reason no longer existed for the freezing of legitimate debts due by solvent debtors.

There was also an increased tendency among the German population to refuse as legal tender, currency (the Reichsmark, Allied Military Mark Notes, Rentenbank Notes) in satisfaction of debts, or as consideration for transactions. To dispel all doubts, Amendment No. 1 to Military Government Law No. 51 "Currency" was issued. This provided that debts, etc., could be satisfied "upon falling due, by payment mark for mark", and that the creditor is, in all cases, bound to accept such currency at its face value in discharge of obligations. In June 1946, therefore, instructions were issued permitting custodians to pay debts which were incurred legally in the normal course of business providing there were funds available without substantially impairing working capital of operating businesses, or encumbering non-operating properties. Payments to a creditor whose property was subject to Law No. 52 were to be made by direct bank transfer to the blocked account of such creditor.

The payment of pre-surrender debts of properties confiscated under Control Council Law No. 2 was prohibited. It was felt that confiscation of these properties did not necessarily involve assumption of debts. However, current obligations of such properties which were operated under the authority of Military Government were so operated, not under Article 4 of M. G. Law No. 52, but under Articles II and III of M. G. Law No. 52, which provides for the removal of the restrictions of M. G. Law No. 52 "when otherwise authorized" by Military Government. The use of such properties was restricted by virtue of their confiscation under Control Council Law No. 2. Military Government authorized the normal operation of many of such properties in order to meet the minimum needs of the German economy.

^{1/} See Annex VIII
^{2/} See Annex XV
^{3/} See Annex XVII

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Control Council Law No. 9 vests title of the I. G. Farben properties in the Control Council and operations of said enterprise was under the control of the I. G. Farben Control Committee. Therefore, instructions were issued that no debts of this organization were to be paid, regardless of when incurred, out of funds of properties confiscated under Control Council Law No. 9, except on order of the I. G. Farben Control Committee.

In general, Military Government regulations in the British, French and Russian Zones of Occupation would not permit the payment of debts to residents of their respective Zones or the U. S. Zone incurred prior to 8 May 1945. In some instances, however, exceptions were made by British authorities and such debts could be paid with appropriate approvals, if the debt was not incurred as the result of war contracts. The Soviets, however, made no exceptions and only permitted certain payments to be made for goods furnished after the beginning of the occupation. All transfers to the Russian Zone were screened at the Berlin Stadtkontor Bank and were made through Reichsbank accounts. All such payments had to be routed through the accounts which the Berlin Stadtkontor maintained with the main Reichsbank offices in Bavaria, Hesse and Wuerttemberg-Baden.

In those instances where a firm located in the Russian Zone had branches in the U. S. Area of Control, payments were permitted within the U. S. Zone to a duly authorized representative of the creditor. All questions of doubt were referred to the Office of the Chief of Property Control Branch, OMGUS. Laws adopted in certain Länder in the Russian Zone provided for the nationalization of certain industries. In some instances, such enterprises also had branches in other zones. Inasmuch as we did not know whether such nationalization or socialization would be recognized in the U. S. Area of Control, no payments to such creditors were permitted pending clarification of this issue.

Boards of Supervisors

The appointment of Boards of Supervisors (Aufsichtsrat) for German firms under control was permitted. German law required joint stock companies (AGs) and cooperative associations to have a Board of Supervisors. In the case of limited liability companies (GmbH), a Board of Supervisors is not required by law, but had to be formed where the articles of Association so provided. There are certain fundamental distinctions between the powers, duties and authority of property custodians and supervising boards. Custodians of Property Control were required under Article III, 4 (a) (II), of Military Government Law No. 52 to preserve, maintain and safeguard seized property, and under MGR 17-815 (as of March 1947) they had full powers of management and direction of seized properties. The Board of Supervisors of AGs, on the other hand, represent the companies in their relationship to the management and could be called upon to conduct lawsuits on their own behalf or on behalf of stockholders. They cannot exercise managerial functions. With very few exceptions, the relations between custodians and boards were very good, and conflicts were few.

Extraordinary Expenditures

As a general rule, extraordinary or unusual expenditures were prohibited. If warranted, however, after a complete survey of the situation, such expenditures were permitted after approval by the LPCC or LCAH. Requests for clearance of extraordinary expenditures incident to render rehabilitation and repairs, erection of new facilities, purchase of new equipment and machinery, etc., were checked by the LPCC or LCAH for basic soundness. Details of the proposed maximum improvements, together with estimated production after the improvement was completed, were then forwarded to Industry Branch, Economics Division, Land level, for approval. They were to determine whether or not the proposed improvement conformed to established over all policies on industrial production. If the Economics Division approved of the proposed improvement, the LPCC (and at a later date the LCAH) was authorized to approve such requests.

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Status of Unexpired Leases

Almost all leases entered into pertaining to properties under control provided that said leases could be terminated by Military Government at any time. It was a policy of Military Government to cancel such leases if requested by the owner when such properties were either decontrolled or, in a case of properties of Nazi Party Members, after exoneration by Denazification Tribunals. The date of termination was fixed as one year from the date on which such notice was given to the lessee. This period of time was considered adequate to permit the lessee to make other lease arrangements. In exceptional cases the period was extended for another six month interval. The owner was called upon to assume the payment of unamortized portions of all costs of repairs and improvements incurred by the lessee. Leases were, of course, not terminated where the owner agreed to the lease or was a party to it. Leases involving information control newspaper licenses were not subject to the foregoing procedure and were not terminated except on specific instructions of Information Control Officials.

Taxation of Property Under Control

Payments of real estate and other taxes were made where possible. In many instances, however, the properties did not produce sufficient income to pay the taxes. In such instances, local Property Control authorities were instructed to make arrangements with the local German Government for the payment of these expenses, together with other necessary expenses required to prevent further deterioration of the property. The local German authorities kept accurate records of such expenditures paid. The accumulated expenditures constitute a lien against the property until such property was either returned to the rightful owner or otherwise disposed of, at which time the liability was liquidated.

In many instances, it was found that taxes on real estate were being paid on pre-war assessed values, in spite of the fact that such properties were considerably damaged by bombing, etc. Custodians were instructed, in such instances, to apply to property tax authorities for a reduction in the tax proportionate to the damage sustained. Although some relief was obtained, local German authorities were extremely slow in making re-assessments and adjustments.

Fire Insurance

Every effort was made to see that properties under control were adequately covered by fire and other hazard insurance. An investigation indicated that many properties, even though completely destroyed, were still covered by fire insurance. Property Control authorities were instructed to establish the necessary procedures to determine the type and amount of insurance necessary for adequate protection of all properties under control. In those cases where insurance was not required, the policies were to be cancelled immediately. In many instances, the only insurance required in the cases of vacant land, etc., was liability insurance.

U. S. Business Men in Germany; "Trading with the Enemy Act"; and Transactional Communications

Numerous properties owned by U. S. nationals were taken into Property Control and custodians appointed to manage said properties. These custodians could not, however, under the "Trading with the Enemy Act" receive directions with respect to the conduct of the business (transactional communications) from their owners. They were permitted to send and receive the business information only, such as balance sheets and operating statements, through OMGUS and State Department channels, and such communications were called "non-transactional business communications".

When U. S. business men were allowed to enter Germany to look after their property here, under the "Trading with the Enemy Act", they could look but not act, they could listen but make no decisions. In June 1946,

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the Treasury Department issued standard form Treasury License No. W-2857, which relaxed to a considerable extent certain provisions of the "Trading with the Enemy Act" with respect to business men in Germany having a military permit. The license did not extend to a U. S. owner outside of Germany who wished to communicate a business decision to the custodian of a German property. Such a communication would have been a breach of the "Trading with the Enemy Act". Treasury License No. 2857, although of great assistance as it permitted business men to "confer with military authorities with respect to the restitution, maintenance, preservation and operation of such properties", did not go far enough in permitting business men to actively assume managerial direction of their properties.

Lawsuits

As a general rule, properties under control were not permitted to be sued without proper authorization from Military Government Property Control authorities. Suits in German Courts involving any of the United Nations were expressly withdrawn from jurisdiction of German Courts by Article I, Section 10 b (1) of Military Government Law No. 2, as amended by Amendment No. 2.

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UNITED NATIONS, NEUTRAL, AND OTHER ABSENTEE OWNED PROPERTIES

The reason for control of property of absentee owners was to protect it for the owner until he could take steps to protect it himself. During the early days of the occupation, communications of a transactional nature were not permitted and travel permits were difficult to obtain. With the opening of the mail for transactional communications, owners were able to give full instructions for the operation of their property. After months of study and analysis, a program providing for the decontrol of properties belonging to citizens of United and Neutral Nations (except Spain and Portugal) was completed.

Decontrol of United Nations', Neutrals' and other Absentee Owners' Properties

Announcement was made on 25 June 1947, just after restoration of transactional communications, that owners of properties in Germany who lived outside of Germany could apply to the German Land Property Control Agency for the release of properties under Property Control to nominees of the owners who are permanent residents of Germany and who have been given properly executed powers of attorney. The requirements for release are:

When the owner is a citizen or a resident of one of the United Nations or a neutral country but is not a citizen or resident of Spain or Portugal.

When the property was placed under Property Control solely by reason of absentee ownership, as provided in Article I, paragraph 1 (f), of Military Government Law No. 52, 1/ and no other reason for control exists.

When the nominee presents a document dated on or after 15 June 1947 (the date when transactional communications were authorized), which constitutes either a valid power of attorney from the owner or a confirmation of an existing power of attorney.

When the nominee is politically acceptable under the Law for Liberation from National Socialism and is a resident of Germany.

When the title is not in dispute.

When the owner can prove ownership of 51 percent or more of the property, if available official records in the Laender (for example, Land Title Register (Grundbuch), Commercial Register (Handelsregister), etc.) do not show prima facie evidence of the fact.

When a release binding on the owner is executed at the time the nominee receives the property.

On 30 October 1947, the same procedure outlined above for the decontrol of properties which were owned 51 percent or more was applied to properties in which an interest of less than 51 percent was held by United Nations and neutral nationals.

Under both programs, the original announcement stated that the operation and management of properties eligible for decontrol, but not so decontrolled, would be turned over to the German Governmental Property Control authorities on 1 January 1948 (in the case of properties in which the applicant had a majority interest), or 1 March 1948 (in the case of properties in which the applicant had a minority interest). However, on 30 December 1947 Military Government announced that the proposed turnover to German authorities was postponed until 31 March 1948.

1/ See Annex VIII.

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On 21 November 1947, the decontrol program was extended to apply to enemy property in the U. S. Zone on the same basis as other foreign-owned properties. Therefore, the properties of nationals of the following countries could now be decontrolled: Italy, Roumania, Bulgaria, and Hungary. Finland also fell into this category because, although not an enemy of the U. S., it was a "nation at war with one of the United Nations".

Early in January 1948, the entire decontrol program was reviewed, as very few owners of properties had taken advantage of the decontrol program. The results of field investigations indicated that the delay was due to a number of factors:

- Poor results on publicity,
- Reluctance on the part of the owners to accept the responsibility,
- Objection by some owners to the form of release as being too broad,
- Cost of custodianship under Military Government was low,
- Belief that Property Control custody offered protection, not present after decontrol.

To overcome some of these objections and to expedite the decontrol program, every effort was made to give more publicity to the program through press releases, direct contact with owners, and direct contact with Military Missions and Consulates. To overcome the objections to the form of release, steps were taken which resulted in liberalizing the form so that notary fees would be lowered and in changing the language in the release form to make it more specific. Provision was also made permitting owners to list specific exceptions, by way of a bill of particulars to the release form. The entire release form was reviewed with representatives of American business organizations, and substantial agreement was reached.

In June 1948 the decontrol program still was not meeting with the degree of success desired. In order to expedite the program, various recommendations were made to, and approved by, the Military Governor. These recommendations were:

That no more properties in this category would be taken under control, except in cases where "irreparable harm" would result.

That owners would be told to correspond directly with the custodian and that German Property Control Authority would be permitted to pass legislation providing for the charging of fees to cover the cost of supervising these properties.

All owners of properties still remaining under control were sent letters indicating the above policy. On 14 September 1948, the Ministers President of the various Laender were authorized to have legislation enacted for the charging of fees to cover the cost of supervision by the German State Property Control Authorities.

During the latter half of 1948 some improvement was noticed. However, results still remained unsatisfactory. The program was again reviewed and specific steps taken to assure the success of the "Liquidation Program". A complete review of all absentee owned properties under control indicated that they could be broken down into specific major groups as follows:

Properties of absentee German owners whose address was unknown;

Properties valued at less than DM 10,000;

Properties valued in excess of DM 10,000;

Properties of absentee owners which were taken under control because of a minority (less than 50%) interest in said property;

Non-income producing properties.

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Disposition of Property of Absentee German Owners Whose Address was Unknown

Section 1911 of the German Civil Code provides as follows:

"For an absent person of full legal age whose residence is unknown, a curator in absentium will be appointed in order to manage the property of the absent person in case the property needs such curatorship."

From the above it can be seen that German law provides ample protection for this category of property. Property Control Field Offices were, therefore, instructed to make appropriate arrangements with the proper German Court authorities for the appointment of a curator in absentium for each of such properties. By the end of January 1949, all of such properties had been transferred to the German Courts.

Disposition of Absentee Owned Properties Valued at Less than DM 10,000

It was found that of all absentee owned properties remaining under control as of 31 December 1948, more than 50% were properties valued at less than DM 10,000. The proposal was, therefore, made and approved that all absentee owned properties valued at less than DM 10,000 be released to agents or relatives who were in custody of the property at the time it was taken under control and who continued to have the confidence of the owner. On 7 April 1949, a program providing for the release of such properties under the above-mentioned terms was announced. All owners were notified of the action taken. They were further notified that certain properties in this category, which could not be disposed of under this program, would be turned over to custodians in absentium appointed by German Courts on 1 June 1949. It was felt that this procedure was equitable and would result in a far smaller burden on the German Court system.

Disposition of Absentee Owned Properties Valued in Excess of DM 10,000

In May 1949, General Order No. 4 was issued pursuant to Military Government Law No. 52. This Order provides for the transfer of property taken under control, solely by reason of absentee ownership to custodians in absentium appointed by German Courts wherever an owner had not applied to Military Government for the decontrol of such property in accordance with Military Government procedures. On 2 May 1949 the Directors of Military Government for the Laender were instructed to have owners advised individually of this procedure and given an opportunity to decontrol their property by 1 June 1949. Properties not so decontrolled are to be transferred to custodians in absentium under the terms of General Order No. 4.

Disposition of Minority Interests of Absentee Owners

A number of large properties under control, it was found, were taken under control to protect minority absentee owned interests. On 23 May 1949, General License No. 16 was issued pursuant to Military Government Law No. 52, which enables absentee owners of stock interests in German enterprises to exercise their voting rights in much the same manner as they were exercised prior to hostilities. Absentee holders of minority interests (less than 50%) in German enterprises were advised that the properties would be released from Military Government control by 20 June 1949. They were further advised of the contents of General License No. 16. Such properties were released to the management chosen by the majority owners.

Disposition of Non-Income Producing Properties

A number of properties in this category were non-income producing and consisted of such items as vacant land, bombed-out buildings, etc. As these properties could be adequately protected by blocking control, Property Control Authorities were instructed to see that adequate notation of absentee ownership and blocking was placed on the Land Registers. Such properties were then released from control.

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Number and Value of United Nations and Other Absentee Owned Properties Under Control at Various Dates to 30 June 1949

<u>Date</u>	<u>Number of Units</u>	<u>Estimated Value in RM</u>
31 December 1945	1,286	571,593,317
30 June 1946	8,015	1,265,978,000
31 December 1946	10,693	1,675,230,490
30 June 1947	12,331	2,045,700,179
31 December 1947	13,842	2,194,402,636
30 June 1948	14,463	1,623,511,084
31 December 1948	10,735	1,099,686,378
30 June 1949	3,048	233,230,092

Of the 3,048 properties remaining under control in this category as of 30 June 1949, approximately 200 were in the process of being decontrolled. Those remaining are in the process of being transferred to custodians in absentium under the German Court system. It is estimated that all of these properties will be released from control prior to 31 August 1949.

Export of Household and Personal Effects

In May 1948 a program was announced providing for the export from the U. S. Zone of personal effects and household goods which were owned by residents of countries outside of Germany, provided that satisfactory proof of ownership prior to 8 May 1945 could be established, that the property was not subject to external or internal restitution, and that no person in Germany had any ownership interest in the property or claims in the nature of liens against the property. This relaxation of the export regulations did not extend to commercial articles or items which are considered a part of the German cultural heritage.

Polish Properties

Under the German Ordinance of 17 September 1940, a great many Polish properties were confiscated by German governmental authorities. Due to this unusual step by the German authorities, many difficulties have arisen in the treatment of Polish properties by U. S. Property Control agencies.

Numerous requests have been received from the Polish Military Mission requesting that the U. S. Decontrol Program be applied to the Polish properties under control.

Unlike most other United Nations properties which were placed under control solely by reason of absentee ownership pursuant to paragraph 1 (f) of Military Government Law No. 52, 1/ Polish properties confiscated under the German Ordinance of 17 September 1940 were taken under control pursuant to paragraph 2 of Military Government Law No. 52. They could not, therefore, be released under the Decontrol Program but could only be returned after the disputed title was settled under the provisions of Military Government Law No. 59, 2/ which provides for the restitution of identifiable property taken from their owners by "wrongful acts of confiscation, dispossession, or spoliation". Properties of Polish nationals were treated the same as properties of other United Nations nationals, but, due to the fact that such property was not under control solely for the reason of absentee ownership, the decontrol procedure could not apply. The Decontrol Program pertains only to properties which were placed under control solely by reason of absentee ownership, and no other reason for control exists. It was pointed out to the Polish authorities that this procedure was necessary in order to fairly determine the question of profits, damages, and rights of purchasers in good faith, inasmuch as certain properties in this category were taken for "legitimate" reasons recognized under International Law.

1/ See Annex VIII.

2/ See Annex XII.

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Treatment of Property on Which Mortgages Are Held by Nationals of the United Nations and Neutral Governments

Such property was only taken into control when the following two conditions existed:

When the circumstances involved were such that taking the property into Property Control custody was necessary to protect the interests of nationals of United Nations and neutral governments.

When the value of the mortgage is in substantial proportion to the present value of the property, e.g., 65 percent or more of the present valuation. In this connection, the instructions to the field pointed out that Property Control was not to be exercised over properties not important or valuable enough to warrant control.

Application of Land Reform Laws to United Nations and Neutral Properties

There are a large number of properties of considerable size owned by people residing outside of Germany which were affected by the various Land Reform Laws in the U. S. Zone. Although these laws sometimes adversely affected the rights of absentee owners, Military Government took the position that such property is subject to the laws of the state in which it is located. Therefore, Military Government does not prevent the operation of the Land Reform Law in such cases.

Appointment of Custodians for Hungarian Properties

The Hungarian Restitution Commission requested Property Control to place Hungarian properties into the custody of Hungarian displaced persons (DP's). Similar requests have been received from other nations. In the Hungarian case, however, the Hungarian officials charged that the German custodians were guilty of negligence and waste. A detailed investigation was made covering a period of approximately one month, and the charges were found, in a large part, not substantiated by the facts. On 10 January 1947 three members of the Hungarian Claims Commission visited the Property Control Officer in Regensburg and offered their apology for having complained. The Hungarian authorities were informed that, although in many instances Hungarian DP's were appointed custodians, installed German custodians who continued to do a conscientious job could not be discharged by Military Government.

Moratorium on Foreign Investments

Military Government Law No. 52 1/ prohibits transfer of property of absentee owners of non-German nationality including United Nations and neutral governments, except where authorized by Military Government. Military Government Law No. 53 2/ prohibits, without license issued by Military Government, transactions in Germany for or on behalf of any person outside of Germany. Accordingly, United States Military Government authorities have not permitted the transfer of property of foreign nationals or governments, or the acquisition of any interests by them. This policy did not apply to the receipt of legacies.

Property Control received a number of inquiries requesting permission to re-acquire properties wrongfully taken from former owners or permission to replace former properties removed for reparations in other Zones, or destroyed.

Early in 1947 Military Government modified the above procedure as follows: applications for special license were considered and approval granted, if the proposed investment was for the purpose of either re-constructing existing property or was to replace essential property, lost to the owner for any reason since 1939, but similar in character. It

1/ See Annex VIII.
2/ See Annex IX.

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was further provided that the purchase of property for replacement had to be in Germany, that only Reichsmark balances already in Germany were to be used in making the purchase, and that the proposed investment would not have the effect of putting the applicant into a superior position in the particular industry concerned to that which he occupied in the industry in 1939, and that the proposed construction would not violate present level of industry plans. Applications for specific licenses with respect to properties under control were to be made through Military Government Property Control authorities. This procedure was later changed so that applications were to be forwarded through German Property Control authorities.

Effect of Currency Reform on Property Control

Article XV of Military Government Law No. 63 "3rd Law for Monetary Reform" provides that United Nations nationals may refuse tender of payment in Deutsche marks of Reichsmark debts owed to them in Germany, or object, by declaration to the debtor, to the conversion of such debt into Deutsche marks. Such refusal of tender of payments or declaration of objection to conversion had to be made on or before 20 August 1948 (later extended to 20 November 1948). 11,000 Units of properties owned by United Nations nationals were under control at the time. A substantial number of said properties and owners had Reichsmark debts owing to them in the form of mortgages, current debts contracted in the normal course of business, etc. The law, briefly, permits those United Nations nationals, who accepted tender of payment in Deutsche marks, to recover the amounts owed to them on the basis of $6\frac{1}{2}$ Deutsche marks for every 100 Reichsmarks. The acceptance of such tender, however, satisfied the debt in full, and the United Nations national involved was precluded from ever recovering in excess of that amount. On the other hand, those United Nations nationals who refused tender of payment in Deutsche marks would have to await a general settlement under a peace treaty. Presumably a general settlement would be at least as advantageous as the terms of the law.

Since the decision to exercise or not to exercise the option under Article XV would have a profound effect upon certain properties under control, all custodians were instructed to make every effort to obtain statements of preference from the owners. Such form letters were forwarded to the Land Directors of Military Government for appropriate distribution.

Payments to Relatives of United Nations Nationals

Certain hardships on dependant relatives of foreign residents were alleviated by General License No. 13 issued pursuant to Military Government Law No. 52 (also known as General License No. 1 to Military Government Law No. 53). Under this license the United Nation or neutral resident was permitted to pay out of his bank account in Germany amounts up to 300 DMs per month to relatives in either the U.S. or U.K. Area of Control. Appropriate instructions were issued to Property Control authorities in the field.

Administration of Property Utilized by Information Control

One major problem which confronted Military Government was the question of the extent to which newspaper licensees could be protected in their possession of newspaper printing plants, which were seized at the end of hostilities, put under Military Government Property Control and then leased to certain newspaper licensees approved by Information Control authorities.

Under existing Military Government policies, directives, etc., every effort was made to obtain long term leases. Where former owners refused to negotiate, mandatory leases were entered into. Payment of a fair rental was required with provision for revision of rental fees. Such leases are permitted to run on until maturity irrespective of the fact that a former Nazi owner may have been given clearance under Denazification laws. Most leases run until approximately 1955.

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PROPERTIES OF THE GERMAN REICH, LAENDER, PROVINCES,
AND POLITICAL SUBDIVISIONS THEREOF

Properties of the German Reich were taken into control pursuant to Article I, paragraph 1 (a), of Military Government Law No. 52.1/ Due to the fact that Reich properties were so extensive, it was not possible for Military Government to establish control over all these properties with the available personnel, nor was it felt necessary in all instances to do so. By far the largest group of properties in this category was not taken under control because property such as the Reichsbahn, Reichspost, and Inland Water Way systems, and properties used to house or facilitate functions of the former Reich government were either under supervision of other interested Branches of Military Government or were used by the various Laender for governmental purposes.

Recommendations for Disposition Made by the Property Disposition Board
on 26 March 1946

It was the feeling of the Property Disposition Board that responsibility for custody of Reich properties which are not being used by the Occupation Forces should be placed in the Land governments. These include all Reich government buildings, most of which were not taken into Property Control custody as the properties could be used in the conduct of such essential governmental functions as may be authorized by the Control Council.

It was further recommended that government buildings and facilities which may not be used in the conduct of essential governmental functions, such as properties of the German Armed Forces Supreme Command, German Army, Navy, Air Forces and components, should be under control of the Zone Commanders. The most feasible solution appeared to be to have title vested in the Land governments, with the understanding that the property be used by the Laender or sold for agricultural purposes, schools, housing projects, etc. The income from the use or sale of this property by the Land governments, it was recommended, should be used for public education, welfare, and similar projects unless the financial structure of Germany required the funds elsewhere.

Ultimate disposition of Reich properties, non-governmental in nature but national in scope, such as the Reichsbahn, Post, Telegraph and Telephone, Radio Stations, the Reichsbank and certain public utilities, was to depend upon future quadripartite action.

With reference to Reich-owned business enterprises, it was recommended that those which were not destroyed or removed as reparations should be transferred to the Laender for interim custody. It was further felt that, if the Land had no use for such enterprises, they should be sold at public auction or by negotiated sale.

Transfer of Responsibility to German Authorities

In line with Military Government policy of transferring responsibility to German authorities, those properties belonging to the Reich, Prussian State, etc. which had been taken into custody by U. S. Property Control authorities were transferred to various German Laender Property Control agencies during the latter half of 1946 for purposes of custody and administration. As stated above, the large majority of Reich, Prussian State, etc. properties were not taken into custody. The Reichsbahn, Post, Telegraph and Telephone were under the supervision of the Transport Division and the Communications Branch of the Internal Affairs and Communication Division. Reichsbank disposal had to await a Finance Division decision as to the future of German banking.

1/ See Annex VIII.

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Problems Concerning This Type of Property

Control Council Proclamation No. 2, Section V, paragraph 14, 1/ states that the disposition of the title to the property of the German Reich, its political sub-divisions, etc. is a matter for the Control Council. Control Council Law No. 46 2/ abolishes the State of Prussia, and provides that the assets will be transferred to the appropriate Laender, subject to such agreements as may be necessary and made by the Allied Control Authority. Due to the break-down in quadripartite negotiations in the early part of 1948, the necessary agreement was not reached.

In view of the above, the recommendation was made in the Liquidation Program that certain properties in this category should be disposed of unilaterally along the lines previously recommended by the Property Disposition Board.

Present Situation

On 20 November 1948, Military Government Law No. 75, "Reorganization of German Coal and Iron and Steel Industries"; 3/ was promulgated. This law disposes of the interests of the former Reich or Prussian State in companies engaged in the aforementioned industries. The law further provided for transfer of these properties to the US/UK Coal Group, pending final disposition. To date, the Coal Control Group has not been willing to accept responsibility for these properties as provided for under Military Government Law No. 75.

After months of work, Military Government Law No. 19 4/ was promulgated. This law provides for the disposition of properties in the U. S. Area of Control, Germany, including the U. S. Sector of Berlin, which belonged to the former German Reich and to the former German States, Laender or Provinces, including the State of Prussia. For purposes of clarification of title, such properties vested in Military Government and title was then immediately transferred to the Laender in which the property was located. Title to properties affected by the law was transferred to the Land in which the property was located, providing either, for outright ownership by the Laender, or for making them trustees for the Federal German State when formed; or for trade unions, cooperatives, political parties or other democratic organizations, if such properties had been taken from them by the former German Government. Certain broadcasting properties of the Reichspost were transferred to public service broadcasting institutions in each Land, organized pursuant to German law. Privately owned interests in any property affected by the law were to be dealt with in future legislation approved by Military Government. The law further provided that the future Western German Federal Government may set aside any dispositions of property to the German Laender made by the law, in cases of conflict between Military Government Law No. 19 and the basic law of the future Western German State.

The uncertainty of title of many of these properties seriously retarded the development of many phases of the German economic position. Repairs, rehabilitation and remodeling were not attempted by persons without title, or assurance of title and the most beneficial utilization of such properties was prevented. Examples are the numerous lands of the former Wehrmacht which were well suited to agricultural uses, but which were not properly developed because temporary occupants were unwilling to make substantial improvements under existing conditions. It is hoped that the new law will permit the Laender to make outright sales of such properties and greatly benefit the German economy.

1/ See Annex XIV.

2/ See Annex XIX.

3/ See Special Report of the Military Governor "Ownership and Control of the Ruhr Industries", November 1948

4/ See Annex XXII.

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Properties properly used for occupation purposes were to remain under requisition until release, although title passed at once to the Landlord or other designated recipients. Transfers of property under the law were to be made by the Minister President of each Land, (in Bremen, the President of the Senate; in Berlin, by the Oberbürgermeister) or such officials as they may name. Although the area specified by the law includes only the U. S. Area of Control, Germany, the law provides for enlargement of the specified area to include the British and French Zones in the event of enactment of similar legislation in said zones.

Article X of the law exempted certain properties from operation of the law, such as properties owned directly or indirectly by the German Reich and used for, or in connection with, the production, distribution and exhibition of motion picture films; and properties of the iron, steel and coal industries disposed of under Military Government Law No. 75.

As of 30 June 1949, almost all properties subject to Military Government Law No. 19 were released from control pursuant to said law. Since promulgation of the law on 16 April 1949 to 30 June 1949, 4,454 units of German State properties valued at approximately DM 3,000,000,000 were released from control. Those properties exempted from the law are receiving special attention. Decartelization authorities are now working on a special law providing for the final disposition of the U.F.A. (Moving Picture Industry) complex. Properties of the German Coal, Iron and Steel Industries must be retained pending transfer to the US/UK Coal Group.

NAZI PARTY ORGANIZATIONS

One of the most important tasks of Property Control was the taking into custody, until final disposition, of properties of the NSDAP 1/ organization. The greatest of such organizations was the DAF (Deutsche Arbeitsfront or German Labor Front). These properties were taken into custody originally under authority of JCS/1067/6 2/ and then under the provisions of Military Government Law No. 52 3/ and Control Council Law No. 2. 4/ The Property Control Branch, in 1945, was directed to assume control of properties of the German Labor Front (DAF) in the U. S. Zone. As an indication of the tremendous amount of work involved in this one category of property alone, a brief outline of the DAF is given below.

Founded as a state labor organization, the DAF, through elimination of individual enterprises, grew under National Socialism into a gigantic economic empire which, by political, economic, industrial, and labor control, had eclipsed many industrial and economic activities in Germany. It owned or controlled approximately 15 percent of the German economy.

Organization of the DAF

The DAF (German Labor Front), affiliated with the National Socialist Party by a decree of Hitler in October 1934, was the instrument by which the Party exercised control over German workers. Ostensibly it was an all-inclusive labor union which integrated into one organization every worker, including those imported from occupied countries, who performed any task in a German industrial plant. Through a series of expansions, it became in fact a gigantic enterprise which controlled every phase of the life and death of the German worker. Through orders from Hitler, all consumers' cooperatives were absorbed into the organization. To bring "Strength Through Joy" (Kraft durch Freude (KdF)) to the German workers, the DAF through the KdF offices supervised his recreation and, to provide "suitable" recreation, the organization acquired hotels, steamship lines, theaters, and publishing houses. To provide for this housing, apartment houses were constructed, building and loan societies were organized to finance individual homes, and insurance companies were created to provide insurance coverage to secure the loan. Each member was permitted to subscribe for

- 1/ Nationalsozialistische Deutsche Arbeiter Partei (National Socialist German Worker's Party).
- 2/ See Annex II.
- 3/ See Annex VIII.
- 4/ See Annex XV.

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the purchase of the "People's Car", to be paid for in installments and delivered after payment was completed. To make the automobiles, the Volkswagen factory was constructed. Medical care was provided through subscriptions, the facilities being owned by the DAF, and death benefits were paid by the insurance companies owned by the DAF which sold policies to the members. Due to those many enterprises, what began as a labor union grew into an economic complex, the organization of which was briefly as follows:

Headed by an office for finance, industry and commerce, the DAF commercial holdings were comprised of two holding companies under which were various real estate properties, the People's Car Factory (Volkswagenwerk), a huge retail cooperative organization, a labor bank and 7 subsidiaries, an insurance group of 10 companies, and 36 miscellaneous industrial and commercial concerns. The value of this large organization was placed by Ley, the Reichsleiter of the DAF, at RM 10,000,000,000, although a more exact estimate would be around RM 3 or 4,000,000,000. As with other German enterprises, estimates of value are only comparative, since they are dependent upon the over-all condition of the economy.

Taking DAF Properties into Custody

A list of DAF properties in the U. S. Zone was prepared in two parts. The first was a list of 12 manufacturing plants, 10 wholesale supply areas, and 1,335 retail outlets of the Cooperative Plant (Gemeinschaftswerk) of the DAF; this part was distributed to Property Control Officers in the field. The second consisted of real properties owned by the Vermoegensverwaltung, a holding company of the DAF; these were then distributed to Property Control Officers in the field. Both lists facilitated the taking into control of such properties.

Of all of the property in Germany formerly belonging to the DAF, approximately 18 percent of the real estate and 20 percent of the branch banks are located in the U. S. Zone. Also in the U. S. Zone are 1 of the 10 DAF insurance companies and a negligible amount of miscellaneous DAF industrial and commercial concerns. Investigation of the insurance companies of the DAF revealed extensive properties that required Property Control supervision.

Legislation

On 29 April 1947, Control Council Directive No. 50 1/ was promulgated. This Directive provided for the disposition of property having belonged to Nazi organizations listed in Control Council Proclamation No. 2 2/ and Control Council Law No. 2. 3/ This Directive was implemented by the promulgation of Military Government Law No. 58 4/ and the issuance of implementing instructions in June 1947 by the Property Control Office, OMGUS, to the Directors of the Military Government of the various Laender.

With respect to such properties located in Berlin, Control Council Directive No. 50 was implemented in March 1949. A commission of five judges is provided for, whose duty it is to review all such properties and to make recommendations for disposition to the appropriate Sector, Property Control offices, for approval. Thus, this category of properties could also be released from control in Berlin Sector.

Implementation of the Program

It was the purpose of the Control Council as expressed in Articles II, III, and IV of Control Council Directive No. 50 that certain democratic and charitable organizations were to receive all of the properties formerly devoted to democratic and charitable uses. Due to the fact, however, that

- 1/ See Annex XX.
- 2/ See Annex XIV.
- 3/ See Annex XV.
- 4/ See Annex XI.

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Directive No. 50 provided that liquid assets pertaining to a certain property were not to be transferred to the organization receiving the properties and also because the Directive provided that receiving organizations must assume certain financial obligations with respect to the property, the recipient organizations refused, with very few exceptions, to accept the properties. It was the intention, of course, that cash accounts, securities, and monetary claims would be the subject of later quadripartite negotiations. Due to the breakdown of those quadripartite negotiations, the transfer of Nazi organization properties was at a standstill. In June 1948, certain recommendations were made to and approved by the Military Governor to remedy the situation. Briefly, they were as follows:

1. It was recommended that liquid assets, ordinarily used in connection with the operation of a property (other than central funds) be turned over to the recipient organizations along with the properties;
2. Properties not accepted on these terms, within three months of the promulgation of this change, by the successor or recipient organizations were to be transferred pursuant to the terms of Control Council Directive No. 50 to the various Laender or Province Governments.

On 9 August 1948, Military Government issued an "Amendment of Instructions Implementing Military Government Law No. 58 and Control Council Directive No. 50." This amendment revises instructions previously issued and provides that Military Government may waive liability of organizations receiving property formerly belonging to them, under Articles II or III of Control Council Directive No. 50, for the payment of debts and accretion in value of such property.

On the same day, Military Government issued a letter, Subject: "Unblocking and Transfer of Property Referred to in Article IX (1) of Control Council Directive No. 50." This letter authorizes the unblocking and transfer to successor organizations of securities, cash accounts, and monetary claims, and the proceeds thereof, provided that such unblocking and transfer is in accordance with an appropriate license issued pursuant to Military Government Law No. 52. 1/

Notwithstanding the above actions, properties of certain organizations not specifically listed in the Appendix of Control Council Law No. 2 2/ remained to be disposed of. A clear and easily applicable test to determine whether an organization falls within Control Council Law No. 2 could not be established. Determination, therefore, had to be made on the basis of pertinent facts which were better known to German authorities than to Military Government. Accordingly, a committee composed of the Land Civilian Agency Heads met and considered the doubtful organizations. Their recommendations were reviewed by Military Government and, with two exceptions, were immediately concurred in. The exceptions were properties of the German Red Cross and of the Reich Food Estate (Reichs-Nachstand).

The German Red Cross and Disposition of Its Properties

The German Red Cross was a huge organization at the peak of the war-effort and employed over half a million paid workers and owned enormous assets, composed of more than 15,000 parcels of real estate and over RM 100,000,000 in liquid assets. Part of the assets were owned by the Praesidium, or Presidency of the National Organization, and part by the local chapters and sisterhoods of Red Cross nurses. Immediately after the occupation, the funds of the Praesidium were blocked and, in many localities in the U. S. Area of Control, local funds were also blocked.

USFET Directive of 7 July 1945, "Administration of Military Government in the U. S. Zone of Germany", Section VI, paragraph 6 of Part II, relating to "Public Health and Welfare", provides:

1/ See Annex VIII.
2/ See Annex XV.

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"The administration of public welfare will be decentralized to the local German administration, except those functions which you determine must be performed on a regional basis."

The German Red Cross is listed as a "welfare agency" in paragraph 22 of the "Military Government Technical Manual on Public Welfare". The foregoing indicated that the German Red Cross was no longer to operate on its former national level, but was to be decentralized, at least to Land level.

Military Government Public Welfare authorities permitted local chapters to continue (after their denazification) their urgently needed welfare activities, such as, care and support of ill, injured persons, etc. Since other charitable, religious and welfare organizations, such as Caritas Verband (Catholic), Inner Mission (Protestant) and Arbeiterwohlfahrt (Labor), had their funds unblocked and were permitted to operate, Military Government Finance authorities permitted the unblocking of local German Red Cross funds so as to be available for all authorized purposes. Accordingly, Property Control made available local Red Cross funds, although title to many properties still remained undisposed of.

In December 1937, a Nazi law was passed under which the German Red Cross was reorganized with a view to bringing it in line with the Nazi regime, establishing the dominating influence of the Nazi Party in that organization by providing for the appointment of the President of the German Red Cross by the Fuhrer. Similarly, all other leading positions were filled by men and women considered wholly reliable by the Nazi Party and appointed with the consent of the Gauleiter of the NSDAP. Consequently, Military Government Legal authorities came to the conclusion that the German Red Cross, as reorganized in 1937 and operated under the Nazi regime, was a Nazi institution established as an "instrument of Party domination". In this connection, it is to be noted that the basic "Handbook of Germany", a manual published by the British Government, lists the German Red Cross as a Nazi organization.

In view of the above, instructions were issued to the Land Property Control authorities to dispose of German Red Cross properties in accordance with the provisions of Control Council Directive No. 50 and legislation and implementing instructions issued in connection therewith. Thus, most of such properties were transferred to the various Laender in which the properties were located.

The Reich Food Estate (Reichs-Nachstand)

An analysis of this organization indicates that the Reich Food Estate was established for the purpose of extending the domination of the Nazi Party to the entire farming population and that, in fact, it was an agency supervised by the Party and was, therefore, classified as a Nazi institution established as an instrument of Party domination within the meaning of Control Council Law No. 2. Such properties were, therefore, transferred to the Laender in which located, in accordance with Control Council Directive No. 50 and implementation thereof.

Social Insurance Collections by Nazi Organizations

Contributions collected by Nazi organizations from employees, but not turned over to social insurance agencies prior to surrender, were regarded as funds held in trust rather than belonging to Nazi organizations. Military Government, looking upon social insurance with favor, desired the payment of all funds that were properly payable to social insurance agencies. Accordingly, early in 1947, the Offices of Military Government for the respective Laender were instructed to regard all funds of Nazi organizations which were collected from employees as social insurance contribution, not as debts, but as funds held in trust for, and therefore payable to, the social insurance agencies.

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Releasing Nazi Party Properties from Control

1. Labor Union and Consumers' Cooperative Properties -

In an effort to speed up the transfer of certain properties rightfully belonging to Labor Unions and Consumers' Cooperatives, a committee of Military Government officials consulted with representatives of the Labor Unions and Consumers' Cooperatives and German Property Control authorities in the various Laender of the U. S. Zone of Occupation during the latter part of August 1948. It was felt that, in view of recent changes in policy, indicated above, the reasons for refusing to accept these properties no longer existed. As a result of these meetings practically all Labor Union and Consumers' Cooperative properties, previously owned by them, were transferred to such organizations during the latter part of 1948.

Due to the fact that certain persons confused the terms "property of Trade Unions, etc." and "property of the DAF", much misunderstanding arose. The property acquired by the DAF since 1933 through ordinary commercial channels, and which was never owned by the Trade Unions or Cooperatives, was transferred pursuant to the terms of Control Council Directive No. 50, to the Laender governments in which such properties were located, to be used by them for the best interests of the German people as a whole. With respect to certain properties in this category, especially suited for Labor Union activities, Trade Unions have, by negotiation with Laender governments, acquired title to substantial properties which never previously belonged to said Trade Unions, but which were bought, or otherwise acquired, by the DAF after 1933, with funds obtained from all possible sources.

2. DAF Insurance Companies -

In view of the fact that DAF insurance companies are in the process of liquidation under the supervision of Military Government, those properties, in line with Military Government policy, were transferred in accordance with MGR Title 17, Section 241, 1/ to a trustee named by, and under the supervision of, the Office of the Finance Advisor and released from Property Control custody.

3. Article III Properties - properties formerly used for relief, charitable, religious and humanitarian purposes.

Properties devoted to relief, charitable, religious or humanitarian purposes were returned to their former owners. In case the former organization no longer exists, the property was transferred to a successor organization approved by Military Government. Charitable organizations organized by the Nazi Party after 1933 were likewise transferred to successor organizations approved by Military Government.

4. Other NSDAP Organizations -

With few exceptions, hereinafter explained, all other remaining Nazi Party organizations' property under control was released during the early part of 1949. As mentioned above, the recommendations approved by the Military Governor in June 1948 provided that properties not claimed by successor organizations, etc., within three months after notification that liquid assets could be turned over with operating properties were to revert to the Laender. This three months' period expired during November 1948. Properties not claimed or accepted were transferred to the respective Laender.

As of 30 June 1949, there were only 346 properties under control in this category, valued at approximately DM 269,000,000. This compares with a figure of 4,438 units of such property valued at approximately DM 627,000,000 in June 1948. Of the 346 properties remaining, 340, valued at approximately DM 38,000,000, are located in Berlin. As indicated above, Control Council Directive No. 50 was only recently implemented in Berlin Sector. It is expected that these properties, in accordance with

1/ See Annex VI.

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recommendations made by the committee of five judges (provided for in the implementation) and approved by Military Government, will be released from control prior to 1 September 1949. The six remaining properties in this category, valued at approximately DM 230,000,000, belonged to the Bank der Deutschen Arbeit, which must be retained under control pending necessary policy decisions and the naming of the liquidation agent. It was planned and agreed that a new labor bank was to be formed and that said organization would be appointed liquidating agent. However, as of 30 June 1949, such organization had not been established.

I. G. FARBENINDUSTRIE

General Order No. 2, dated 5 July 1945, ^{1/} issued pursuant to Military Government Law No. 52 provided for the seizure of I. G. Farbenindustrie. The order placed the direction of the subsidiaries, affiliates, and control organizations of the subject company in the U. S. Zone under the supervision of sub-control officers. Inasmuch as it was impossible for these officers alone to control immediately this enormous organization, instructions were issued at the request of the Chief Control Officer to all Military Government Finance Officers directing that the necessary appropriate action be taken to block all property not under control of sub-control officers. Most of the properties of this organization were taken under Property Control jurisdiction and the funds of the organization blocked prior to December 1945.

The objectives of the seizure of I. G. Farbenindustrie - the largest corporation in Germany and the largest chemical corporation in the world - were to forever destroy its monopolistic control over German industry and to eliminate the war potential which it represented. Specific objectives of the seizure included making its plants available for reparations, destroying certain plants utilized for strictly war purposes, decentralizing the management and dispersing the ownership of individual units, terminating interests in cartels and cartel-like arrangements and preventing research for war purposes.

By 1937, I. G. Farben had a net worth of nearly RM 6,000,000,000, a capitalization of approximately RM 1,400,000,000; participations in nearly 400 German industrial organizations, and participations in nearly 200 organizations outside of Germany, valued at approximately RM 1,000,000,000. In Germany, before the war, I. G. Farben and its subsidiaries had more than 200,000 employees. During the war, this figure was increased to approximately 400,000 employees.

On its capitalization, RM 40,000,000 of preferred shares, with multiple voting rights, were held by or for I. G. Farben, as a safeguard for voting control. Approximately 87%, or RM 1,360,000,000, of common stock was owned by corporations and individuals within Germany. The remaining 13% of the common stock was owned abroad as follows:

<u>Nationality of Stockholders</u>	<u>Percentage of Total Capital Stock</u>
Switzerland	3.57
England	2.93
Holland	1.09
U. S. A.	0.71
Spain	0.46
Czechoslovakia	0.44
Belgium-Luxembourg	0.15
Other Countries	3.65

Pertinent Legislation and Military Government Policy Statements

On 30 November 1945 Control Council Law No. 9 was promulgated. ^{2/} This law provided that all plants, assets, etc. owned by I. G. Farben on or after 8 May 1945 be seized and title vested in the Control Council.

^{1/} See Annex VIII
^{2/} See Annex XVII

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On 10 December 1946 OMGUS General Order No. 300.4 provided that complete authority and responsibility for custody and administration of properties of the former I. G. Farbenindustrie A. G. in the American Zone be transferred, as of 1 February 1947, to the U. S. I. G. Farben Control Officer of the Economics Division. The timeliness and essentiality of General Order No. 300.4 cannot be over-emphasized. Prior to the issuance of the General Order of 10 December 1946, the difficulties which existed in trying to manage and operate the I. G. Farben properties is best illustrated by listing the large number of authorized offices handling I. G. Farben business:

- a. Property Control
- b. Reparations
- c. Decartelization
- d. I. G. Farben Control Office
- e. Several Branches of Economics Division
- f. Fiscal
- g. German Minister President
- h. Units Occupying Premises

It was, therefore, a great boon when General Order No. 300.4 was promulgated on 10 December 1946, giving the U. S. I. G. Farben Control Officer complete authority and responsibility for custody and administration of former I. G. Farben properties in the U. S. Zone of Occupation and Berlin Sector.

Release of I. G. Farben Properties from Control

In April 1947, the I. G. Farben Control Officer (U.S.) devised a plan providing for the transfer of I. G. Farben properties, located in the U. S. Area of Control, Germany, to various trustees. Ever since that time, until early in 1949, when the program was completed, the process of transferring such properties continued. In all, 169 I. G. Farben properties, with an estimated value of DM 1,084,147,845, were transferred to trustees in accordance with the above mentioned plan.

PROPERTY OF NAZI MEMBERS (NAZI PARTY MEMBERS)

Taking Property under Control

In accordance with Military Government Law No. 52 and General Order No. 1 1/ thereunder and the Law for Liberation from National Socialism and Militarism, 2/ property of Nazi Party members was taken under control. By January 1948 approximately 55,000 of such properties had been taken into custody. It must be remembered that this is a net figure, since Property Control policy provided that as soon as a denazification trial was completed by the Spruchkammer the property was either turned over to the German Property Control authorities as agent for the Land, if the property was confiscated, or returned to the owner if cleared by the Spruchkammer. The process was a continuing one of taking such properties under control and, at the same time, of releasing properties where final adjudication had taken place.

Properties of Nazi Party Members constituted by far the largest group of properties under protective custody.

Applicable Legislation and Procedure

In October 1946, Supplement No. 2 to General Order No. 1 pursuant to Military Government Law No. 52 was amended. Until the amendment, property confiscated by action of the Spruchkammer was subject to Property Control custody under the German Law for Liberation from National Socialism and Militarism as well as under Military Government Law No. 52. Such property was now subject to Property Control custody under the German law only.

1/ See Annex VIII.

2/ See Annex V.

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In the administration of such property, the Land Civilian Agency acted on behalf of the German State and was not the agent of Military Government. In January 1948, the Allied Control Authority issued Directive No. 57, ^{1/} which provided for the disposition of property confiscated under Control Council Law No. 10 ^{2/} or legislation issued pursuant to Control Council Directive No. 38. (The Arrest and Punishment of War Criminals, Nazis and Militarists and the Interment, Control and Surveillance of Potentially Dangerous Germans).

Creation of a Special Fund for Needy Persecutees

Each of the three Laender of the U. S. Zone (Bavaria, Wuerttemberg-Baden, Hesse) enacted legislation in the latter part of 1946, with the approval of the Deputy Military Governor, for the purpose of meeting emergency requirements of needy persons whose health, freedom or property suffered damage under Nazi dictatorship, on the grounds of such persons' race, religion, ideology or political creed. To finance this program these laws provided for the establishment of special funds from the proceeds of administration or sale of properties forfeited as the result of Spruchkammer decisions.

Charging Fees for Supervising Nazi Properties

In February 1949, German Property Control authorities were authorized to charge reasonable fees to cover the cost of supervising the administration of properties of persons primarily categorized as Class I and Class II offenders under the Law for Liberation from National Socialism and Militarism. This authorization further provided that in cases where all of the property of the accused was not confiscated, a proportionate share of the fees charged against such properties was to be returned to the owner in direct ratio to the property said owner was permitted to retain.

Release of Properties of Category III and IV Offenders

Property Control procedure for controlling properties of Nazi Party Members was outlined in MGR 17-235.2, ^{3/} which required control of property of Nazi Party Members in accordance with Military Government Law No. 52, General Order No. 1, thereunder, the Law for Liberation from National Socialism and Militarism, and the amendment of Article 58 of this German law, approved by the Military Governor on 3 October 1947. Paragraph 1c of Supplement No. 2 to General Order No. 1 and Articles 58 and 61 of the Law for Liberation from National Socialism and Militarism were changed late in 1947, so that from that time forward only the properties of persons preliminarily categorized by the Public Prosecutors as Class I or Class II Offenders were subject to Property Control custody prior to trial by the Spruchkammer. Therefore the properties of persons given a preliminary classification as Class III or IV Offenders by public prosecutors under the Law for Liberation from National Socialism and Militarism were no longer taken into Property Control custody prior to trial by the Spruchkammer, and all such properties already taken into Property Control custody were to be released unless other grounds for control existed. Such instructions were issued to the field in December 1947. Under the above program, however, properties having more than 50 employees or having a property tax value in excess of RM 1,000,000 continued under Property Control custody even though the owner was a Class III or IV Offender. Properties of persons classified as probationers by the Spruchkammer also had to remain in custody until the probationary period expired.

In the case of properties owned by heirs of a deceased Nazi Party Member, the rule outlined above with necessary modifications was applied. In March 1948, instructions were issued to the field which provided for release of properties in those instances where the heir was not incriminated and where the deceased Nazi has not been found to be a major offender or a Nazi of such notoriety or reputation that the release to the heir could be

^{1/} See Annex XXI.
^{2/} See Annex XVIII.
^{3/} See Annex VI.

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considered incompatible with the Denazification Policy. Numerous properties in this group were retained due to the fact that German State authorities failed to commence proceedings under Article 37. The Land Civilian Agency Head was instructed to request from the Minister for Political Liberation an expression of the State's intention with respect to deceased Nazi Party Members. If the Minister for Political Liberation failed to reply within a reasonable length of time, said property was released from control to the heirs if qualified.

In November 1948, Military Government issued instructions to the field to release from control properties having more than 50 employees or a tax value exceeding RM 1,000,000 belonging to Class IV Offenders. Due to the fact that no confiscations may be charged against persons classified as Class IV Offenders, and in line with Military Government policy of returning as much property as possible to the German economy, provided Military Government policies are not violated, this procedure was instituted.

Present Situation

On 1 January 1948 there were 55,545 units of this category of properties in Property Control custody. On 1 July 1949, there were 3,391 such properties under control belonging to people primarily categorized as Class I or Class II Offenders and Probationers. Under present regulations, these properties must continue under control until a final decision has been rendered by the Denazification Courts or the probationary period has expired. However, on final adjudication, speedy release will be made by Property Control authorities in accordance with the Court's decree.

REQUISITIONED PROPERTIES

Property Control regulations provide that whenever property actually taken under control is requisitioned by the U. S. Occupation Forces, said property is released from control and made sole responsibility of the requisitioning authority. Nevertheless, numerous inquiries have been received by Property Control authorities from absentee owners concerning requisitioned properties. Whenever such inquiries were received, they were forwarded to the Theater Chief Engineer for appropriate reply. ^{1/}

Derequisitioning of Property Occupied by U. S. Forces

Military Government regulations further provide that said properties when derequisitioned could be taken under control for protective purposes. It appears, however, that in a number of instances during the interim period after derequisitioning and before the property was taken into custody, that cases of looting and robberies occurred. As soon as this situation became apparent, arrangements were made with requisitioning authorities whereby such authorities were requested to forward lists of properties to be derequisitioned in the near future. They were also requested to contact Property Control Land officials so that such losses could be prevented by the prompt appointment of a custodian.

Requisition of Furniture by Military Posts

Widespread unrest and dissatisfaction was caused by the procedure followed by Military Posts in purchasing household furnishings for Reichsmarks. This was particularly true in the case of such properties belonging to United Nations and neutral absentee owners and properties in the "duress" category. Consequently, Property Control made the recommendation, which was approved in August 1947, whereby such purchases were limited to properties of Nazi organizations and Nazi individuals. Where such properties were purchased by the Military Posts, the proceeds were placed in blocked accounts for the benefit of the owner.

^{1/} The address of the Theater Chief Engineer is: Chief of Engineers, European Command, APO 403, c/o Postmaster, New York, N. Y.

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LOOTED PROPERTIES - EXTERNAL RESTITUTION

Numerous items of identifiable goods taken by force and removed by the enemy from countries over-run by Germany were eligible for restitution to such countries to the extent consistent with reparations. In October 1946, Property Control Branch began receiving from the Restitution Branch external restitution claims that had been presented to them by foreign missions. These claims, eventually totaling approximately 8,000 in number, were carefully investigated by the Property Control field staff. Every effort was made to locate the claimed properties and place them under control. Information concerning ownership, origin and present location was compiled and forwarded to the Restitution Branch, OMGUS, for decision as to whether or not the property was eligible to leave Germany. Where the property was located, a custodian was appointed to safeguard it against theft and deterioration.

In general, however, the work of locating the properties and making shipment proved extremely slow. To expedite the External Restitution Program, six American personnel from OMGUS were assigned to temporary duty in the field, beginning 1 July 1948, for the purpose of winding up the External Restitution Program by 31 December 1948. It was their mission to assist German Property Control authorities and Military Government representatives in the accurate and speedy location and identification of claims, and to screen and spot check all reports from German Property Control authorities. By 31 December 1948, all property connected with outstanding restitution claims had either been placed in custody or the claims had been dropped. To make an equitable disposition of all dropped claims, a policy was formulated for determining ownership before the property was returned to the person who held it at the time of custody. This involved further investigation on the part of the Property Control field staff, but insured that the properties were returned to their rightful owners.

As of 30 June 1949, there remained under control 598 units awaiting shipment. Until a final determination is made by the State Department as to policy pertaining to such shipments of properties belonging to Hungarian, Lithuanian, Latvian, etc., owners, such properties must remain in control. All other properties in this category which could have been shipped under existing Military Government policy have been shipped. As of 30 June 1949, the External Restitution Program, insofar as it affects Property Control, may be considered complete. After that date, such properties taken under control will be limited to "meritorious" claims and will only be taken under custody at the request of Restitution authorities.

MISCELLANEOUS

Disposition of Captured Enemy Material and Funds Derived from the Sale thereof

Since the inception of the Property Control Program, considerable quantities of captured enemy material and funds derived from the sale thereof had been held in Property Control custody. No action could be taken to correct this situation until a statement of policy was received from the Department of the Army as to what items are to be considered as captured enemy material.

The statement of policy from the Department of the Army, 1/ as

1/ Following is an excerpt from pertinent AGWAR cable WX-81794:
"Subject is captured enemy property."

"As matter of policy you will treat as captured enemy material only property which was owned or held for direct military use by enemy military forces."

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supplemented by decision of Military Government, 1/ indicates that, in order to be considered captured enemy material, the property involved must meet the following conditions:

- a. It must have been movable property owned or held for direct military use by enemy military forces.
- b. It must have been acquired by the US Army in most cases not later than 8 May 1945 but in no case later than 5 June 1945.
- c. It must have been seized by the US Army and reduced to "firm possession". The term "firm possession" is considered to require a manifestation of intention to seize the particular property and to exercise some type of custody or possession thereof.

Sale of Goods into the German Economy through STEG (Staatliche Gesellschaft zur Erfassung von Ruestungsgut GmbH) (State Collection Agency for Surplus War Goods)

To assist the German economy, a plan was devised early in 1947 whereby captured enemy material (CEM) would be turned over to a German corporation organized by the Laender governments.

To expedite the program of transferring captured enemy material, the Land Property Control Chiefs were requested to make a complete survey of all CEM and funds derived from the sale thereof and to make the necessary preparations for a speedy transfer to STEG. All such property has now been transferred to the appropriate German agency.

In October 1948, Property Control Circular No. 7 was promulgated and provided, in part, for complete release to STEG of "war materials" as defined and enumerated in Control Council Law No. 43. All items under Property Control which were mentioned in Schedules A and B of said law were transferred to STEG for disposal into the German economy.

In some instances, movable properties which were subject to rapid deterioration, belonging to United Nations and absentee owners, were also transferred to STEG for the purpose of utilization in the German economy. In such instances, however, the proceeds of the sale, less selling expenses (in no event exceeding 20%) were placed in a blocked account for the benefit of the absentee owner. Property Control authorities reserved the right to scrutinize overhead charges or selling expenses deducted by STEG from the proceeds of sales.

1/ Early in 1947, Military Government policy (MGR 11-422) provided as follows:

All captured enemy material (CEM) under the control of the US Forces, except such as is to be retained by the US Army, is to be transferred against quantitative receipt to the German economy through "Staatliche Gesellschaft zur Erfassung von Ruestungsgut GmbH." or such bizonal successor agency as may be established. All CEM and funds derived therefrom, now subject to the control of Military Government, or which may come into its possession or under its control, will be turned over to the above-mentioned German corporation. CEM is defined as all movable property owned or held for direct military use by enemy military forces, which has been acquired by the US Army (in most cases not later than 8 May 1945, but in no case later than 5 June 1945) and seized by the US Army and reduced to "firm possession". The term "firm possession" is deemed to require a manifestation or intention to seize the particular property and exercise some type of custody or possession thereof.

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TREATMENT OF DURESS PROPERTIES AND BRIEF REVIEW OF INTERNAL
RESTITUTION PROGRAM UNDER MILITARY GOVERNMENT LAW NO. 59

Introduction

Among the most important categories of properties over which property control has been exercised from the very beginning are so-called "duress" properties. Even prior to the surrender of Germany, it was the announced policy of the United States Government to take appropriate steps for the safeguarding of properties which had been expropriated by National Socialist persecution from their former owners.

Control Council Proclamation No. 2 on "certain additional requirements imposed on Germany" provides in Section XI, paragraph 42 (b), as follows:

"The German authorities will comply with such directions as the Allied representatives may issue regarding the property, assets, rights, title and interests of persons affected by legislation involving discrimination on grounds of race, color, language or political opinions."

This policy was also clearly restated in the Directive on U. S. Objectives and Basic Policies in Germany, of 15 July 1947, 1/ which reads as follows:

"It is the policy of your (i.e. American) government that persons and organizations deprived of their property as a result of National Socialist persecution should either have their property returned or be compensated therefore and that persons who suffered personal damage or injury through National Socialist persecution should receive indemnification in German currency. With respect to heirless and unclaimed property subject to internal restitution you will designate appropriate successor organizations."

Administration of Control Over Duress Properties

In execution of the above-mentioned policy, Military Government from the beginning has directed control of all properties expropriated or confiscated under circumstances indicating duress. Such control was imposed on the basis of lists of properties compiled in some cases prior to the surrender of Germany, or as disclosed by field investigations, or made known to Property Control Agencies in the U. S. Zone through communications from former owners, or their successors in interest. Reports required by Military Government from present owners, German governmental agencies, and financial and credit institutions, with respect to properties presumptively expropriated or confiscated under discriminatory measures of National Socialism (persecutory actions for racial or political reasons) were screened, and also resulted in Property Control action.

Property Control action was taken on the basis of Section 2, Article I of Military Government Law No. 52 2/ (Revised Text, 20 July 1945) which provided as follows:

"Property which has been the subject of transfer under duress, wrongful acts of confiscation, dispossSESSION or spoliation, whether pursuant to legislation or by procedures purporting to follow forms of law or otherwise, is hereby declared to be equally subject to seizure of possession or title, direction, management, supervision or otherwise being taken into control by Military Governments."

1/ Military Government Regulation (MGR 23-2050).
2/ Sec Annex VIII.

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Blocking control was applied to savings bank deposits, accounts, funds, securities and other negotiable interests on the same basis.

Custodians appointed by Military Government, or German Property Control Agencies under the direct supervision of Military Government, were charged with the administration of properties under prescribed conditions and requirements for accounting and auditing reports intended to assure adequate safeguarding controls. The control and influence of present owners over the administration of the properties or enterprises were wholly excluded in most cases as a matter of principle and policy. All custodians of controlled properties were appointed on the basis of exemption or clearance under various denazification regulations which became generally applicable.

The 15 August 1945 Directive, 1/ for example, extended the denazification provisions of the 7 July 1945 Directive (Administration of Military Government in the U. S. Zone of Germany) 2/ to influential Nazis and militarists in all walks of life and authorized control action over the properties of all persons removed or designated hostile to Allied purposes. The latter were deemed to be included in the class of persons whose properties were rendered subject to seizure or control by Military Government pursuant to General Order No. 1, issued under Military Government Law No. 52.

The Law for Liberation from National Socialism and Militarism, 3/ enacted by the German Land Governments in the U. S. Zone to replace the 15 August 1945 Directive, has continued German responsibility for denazification in accordance with principles established by Control Council Directive No. 24 (Removal from Office and from Positions of Responsibility of Nazis and of Persons Hostile to Allied Purposes).

The policy of Military Government has been to retain properties of a duress nature under control pending final settlement of the case before Restitution authorities, as provided for under Military Government Law No. 59. An exception to this policy has been in the application of MGR Title 17-501 4/ which authorizes the release of properties of insignificant value, if said properties could be adequately safeguarded by other means, i.e. blocking of transfer of title.

Promulgation of Military Government Law No. 59 5/

Upon request of Military Government, the Laenderrat, through its Property Control Committee, with the assistance of Military Government officials, prepared the draft of a law providing for the restitution of identifiable property which, for reasons of race, religion, nationality, ideology or political opposition to National Socialism, was a subject of transfer under duress during the Nazi regime. In March 1947, the substance of this draft was approved by the Property Disposition Board, OMGUS, in which all interested functional divisions were represented.

In submitting the law, the Laenderrat made the following comments:

- a. That a just settlement of restitution could not be achieved without enacting a uniform restitution law in all four Zones, and that a law limited to one Zone gave rise to serious apprehensions;
- b. That the draft law failed to allow the Restitution Tribunals such freedom of action as required to safeguard an equitable treatment of the individual cases on their merits;

1/ See Annex IV.
2/ See Annex III.
3/ See Annex V.
4/ See Annex VI.
5/ See Annex XII.

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- c. That the provisions of the draft law would lead to hardship for honest persons who had acquired the property in good faith;
- d. That the time limit it allows for filing of restitution claims until 31 December 1948 was too long.

Military Government submitted a paper to the Allied Control Authority in April 1947, proposing a uniform restitution law for Germany based on the Laenderrat draft. After discussions of this proposal for over seven months, it was clear that quadripartite agreement was impossible. Discussions then proceeded with a view to reaching agreement with British Military Government on a bizonal law, but it appeared that such an agreement was also not possible in the near future. To avoid further delay, it was decided to proceed with the promulgation of a restitution law for the U. S. Zone on a unilateral basis.

Because of certain agreements reached with the British Element, and in some cases with the other powers, in respect to some of the provisions of the draft law, certain changes were suggested in the Laenderrat draft which incorporated those agreements and did tend to alleviate the apprehension expressed by the Laenderrat. On 3 October 1947, the Laenderrat was asked whether the four Ministers President constituting the Laenderrat were prepared to promulgate in their respective Lands, a law based on the draft submitted by the Laenderrat as modified in the manner indicated above. On 7 October 1947, the Laenderrat could not reach a unanimous decision and it appeared to Military Government observers unlikely that the Laenderrat would ever agree to approve the enactment of a restitution law which would be limited to the U. S. Zone only. Therefore, Military Government advised the Laenderrat of its intention to promulgate the restitution law as Military Government Law No. 59 on 10 November 1947.

Military Government Law No. 59 is based on the original Laenderrat draft, with necessary modifications so as to correspond to agreements reached on some provisions with the other powers, and others which were necessary to remove certain technical defects from the draft law.

On the same date, 10 November 1947, the Central Filing Agency provided for in the law was established and commenced operations at Bad Nauheim (Hesse). Subsequently and successively, Bremen, Hesse, Luerttemberg-Baden and Bavaria passed the necessary implementing legislation establishing restitution agencies in the respective Laender of the U. S. Zone.

Military Government Law No. 59 provides for filing of petitions with the Central Filing Agency for the restitution of identifiable property. The expiration date for such filing was 31 December 1948.

With a view to securing all possible information concerning properties which had been transferred under duress circumstances, the law also provided for the submission of reports by present owners of duress properties, or by persons or financial institutions having any information concerning transfers of property under duress circumstances.

The principle that duress properties should not escheat to the State because of the lack of heirs or successors in interest was also recognized in the law which provided for the establishment and appointment of successor organizations. This was accomplished by Regulation No. 3 under the law passed on 23 June 1948. On the same date the Jewish Restitution Successor Organization, representing all leading Jewish organizations of the world interested in the establishment of an adequate restitution program, was authorized by Military Government to claim all heirless and unclaimed Jewish properties.

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Organization and Administration of Restitution Program under Military Government Law No. 59

The law provides for the establishment of restitution agencies, initially charged with the responsibility of trying to effect amicable settlements of claims between the parties. If such settlements cannot be attained, the claims are then referred to restitution chambers which are part of the German court system. Appeals from the decisions of the restitution chambers may be taken by either party to the Appellate Courts (Oberlandsgerichte), and from the latter to the Board of Review, whose decisions are final.

The Board of Review, composed of four American Judges assisted by experts on German law, was established pursuant to Regulation No. 4 to Military Government Law No. 59 passed on 2 August 1948. Appointments of the members of the Board of Review were made on 3 November 1948.

There are presently 20 Restitution Agencies, 13 Restitution Courts, and 6 Oberlandsgerichte (Appellate) Courts - exclusive of the Board of Review - in the U. S. Zone.

The Jewish Restitution Successor Organization, established at Nuremberg, with branches located in a number of cities in the different Länder of the U. S. Zone under previous authorization given by Military Government, commenced, in the first week of October 1948, the examination of approximately 80,000 reports affecting properties presumably transferred under duress circumstances. Information secured from these reports has provided a basis for the preparation of petitions. As a result, approximately 165,000 petitions were filed with the Central Filing Agency prior to 31 December 1948, the expiration date for the filing of petitions under Military Government Law No. 59, in connection with every Jewish property reportedly transferred between 30 January 1933 and 8 May 1945.

In the middle of November 1948 authorization was issued for similar examination of the reports on file with the Central Filing Agency by accredited representatives of approximately 14 Military Missions and Consulates of foreign nations.

Difficulties affecting the satisfactory perfection of claims arising from restrictions on remittances or payment of expenses or services of attorneys, the transmittal of information by air mail, and access to information contained in public records of various German governmental agencies or offices were resolved by appropriate measures and directives issued by Military Government.

Numerous requests for extension in the expiration date for the filing of petitions beyond 31 December 1948 were received by Military Government. Serious consideration has been given to these requests. It was, however, decided that any extension in the expiration date would be more detrimental to the entire program of restitution than the benefit to the comparatively few claimants would justify.

In reaching this decision, consideration was given to the many efforts of Military Government to secure publicity of the law in all the countries of the world through U. S. Consulates and Missions, and military and diplomatic missions accredited to Germany.

Other considerations were the following:

- a. Claimants had 13 months in which to file;
- b. Titles to properties which may be claimed for restitution have been in a state of uncertainty for 3½ years and will remain so until the final deadline for filing claims;

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- c. Modifications of the law with respect to time for filing may lead to requests from various sources to make other changes in the law;
- d. It was desired that all possible burdens and uncertainties imposed by Military Government on the German people and economy be terminated before the Occupation Statute becomes effective.

Most of the requests for an extension in the expiration date were based upon the argument that information considered essential to a claim was not available or accessible. This argument was not considered to be very strong, and Military Government consistently advised claimants that the provisions of the law are adequate, since minimum information only need be filed initially. A petition containing a description of the confiscated property and stating as exactly as possible, under the circumstances, the time, place and circumstances of the confiscation, and, so far as is known to the claimant, the names and addresses of all persons having, or claiming to have, an interest in the property, if filed with the Central Filing Agency before 31 December 1948, would be sufficient to bring their claim within the statute of limitations. Any further information that might be required for settlement or adjudication of the claim could be submitted thereafter to the Restitution Agencies or Restitution Courts, as required.

For the foregoing reasons, Military Government did not extend the expiration date for the filing of claims.

A comprehensive reporting system designed to provide pertinent information as to the status and progress of every claim, and to indicate the progress made by the various Restitution authorities, was placed in operation in the early part of 1949. Supervisory authority will therefore be enabled to notice trends and to spot weaknesses or bottle-necks and be permitted to take early corrective action where required. The Reporting and Control System was designed to enable close supervision with a minimum of Military Government personnel.

Modification of Property Control Policy Subsequent to Military Government Law No. 59

Subsequent to the enactment of Military Government Law No. 59 (10 November 1947), and after passage of a period of time considered sufficient for the dissemination of knowledge of its provisions, a further modification in policy was deemed advisable. By a Directive, issued 15 July 1948, Property Control action was directed thereafter only in those cases where notice of the filing of petitions under Military Government Law No. 59 with the Central Filing Agency was received. A further Directive, issued 3 August 1948, however, authorized exercise of Property Control action, notwithstanding the fact that no petition had been filed with the Central Filing Agency under Military Government Law No. 59, if it appeared that irreparable damage might be done to a claimant's interests unless the property were taken into control.

Pending final disposition of claims or petitions under Military Government Law No. 59, properties under control will be managed efficiently and impartially.

Of the 220,551 petitions received by the Central Filing Agency, 206,279 as of 30 June 1949 have been forwarded to local Restitution authorities for final adjudication.

Status of Restitution Program - 30 June 1949

Duress properties under control as of 30 June 1949 numbered 30,333.

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Petitions Received by the Central Filing Agency as of 30 June 1949.

TOTAL	220,551
Complete from claimants	52,153
Incomplete from claimants	2,016
Petitions from Jewish Restitution Successor Organization (JRSO)	163,262
Petitions from Public Prosecutor	3,120

The progress of the cases through the Restitution Agencies and other Restitution authorities is most encouraging. As of 30 June 1949, 37,428 petitions were actually received by the various Restitution Agencies. Of these, 9,672 are available for final disposition in view of the fact that service, as required under the law, is complete. Of these cases, 2,383, or 24.6% of those available for final disposition, have been finally disposed of as follows:

	Total
Amicable Settlements	985
Petitions granted by Restitution Agencies and not appealed	133
Petitions dismissed by Restitution Agencies, Restitution Chambers, & Oberlandesgerichte, and not appealed	512
Petitions withdrawn from Restitution Agencies, Restitution Chambers, & Oberlandesgerichte	633
Decisions of Restitution Chambers, not appealed	115
Decisions of Oberlandesgerichte, not appealed	5
	<u>2,383</u>

Restitution in Berlin and British and French Zones

Military Government Law No. 59 is, at present, not applicable to the U. S. Sector of Berlin. However, on 16 February 1949, an order was issued by the Allied Kommandatura (three Western Sectors) to the Oberbürgermeister of the City of Berlin, providing for the establishment of a Central Filing Agency to receive reports and claims pertaining to property located in the three Western Sectors of Berlin transferred under duress. Negotiations with British and French authorities continued and early in July 1949, a Restitution Law for the three Western Sectors of Berlin was promulgated. With very few exceptions this uniform law is the same as U. S. Military Government Law No. 59.

A filing of restitution claims in the British Zone is presently covered by General Order No. 10, which provides that claimants have until 31 December 1949 to file restitution claims. British officials request that all claims be filed directly with Das Zentralamt fuer Vermögensverwaltung, British Zone, Bad Nenndorf, Land Niedersachsen.

Early in 1949, British Military Government authorities promulgated a restitution law in their Zone almost identical with the restitution law in the U. S. Zone, and also identified by the same number, namely, British Military Government Law No. 59.

Only claims in excess of 1,000 marks will be considered under General Order No. 10. All persons who have any knowledge of property changing title under duress in excess of 1,000 marks since 30 January 1933 were

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required to make declaration to the administrative head (Landrat) of the rural district (Landkreis) or to the chief major (Oberbuergermeister) of the municipality (Stadtkreis) in which he or she resided.

In the French Zone, all claims for restitution have to be filed within 18 months of date of enactment of Ordinance No. 120, which became effective 10 November 1947. The French have established special courts in each Land to try restitution cases. These courts consist of a presiding judge and two other members, and the courts have exclusive jurisdiction over all restitution cases. Claims for real property must be filed with the court in the district in which the property is located. Claims for restitution of personal property must be filed with the court in the district where the person has his regular place of residence.

Status of Restitution under a General Claims Law

In the U. S. Zone, the Laenderrat, pursuant to request of Military Government, has prepared and submitted a General Claims Law. Said law was not approved by Military Government and early in 1949 was returned to the Laenderrat for compliance with Military Government suggestions.

To date no comparable action has been taken in the British Zone. In the French Zone, the redress of wrongs resulting in damages or personal injuries, not connected with claims for the restitution of identifiable property, has been charged as a German responsibility under Ordinance No. 164.

CONCLUSION

Following World War No. I, the world saw Germany in the throes of her greatest panic in history. Representatives of foreign industries and individuals of all countries, taking advantage of the unchecked inflation, descended upon this destruction and bought large blocks of buildings, homes and plants, at only a fraction of their real value. Mortgages, life insurance and pensions become worthless. Some authorities point to this period as nurturing the seeds of Naziism and the subsequent World War II.

Following World War No. II, there was again a tendency toward inflation. However, thanks to controls imposed by far-seeing planners in Washington, London and Military Government, the inflation was kept under control and was in no way comparable to that which followed World War I. No properties in the U. S. Area of Control, Germany, were permitted to be purchased by foreigners, nor was foreign capital permitted to take advantage of the destruction and destitution of the German nation. To a large extent, Property Control was used to accomplish the desired result.

There were millions of dollars worth of American and Allied properties in Germany which had to be protected. There was denazification, demilitarism, deindustrialization, restitution and reparations which had to be carried out. Pending final disposition under the above-mentioned programs, control and protection of related properties was necessary. Property Control custody was taken to remove designated persons and organizations from positions of importance and power, and render them harmless to the program of Democratization. Property Control custody was necessary to protect a great mass of property taken from its rightful owners by duress. Property Control, to a large extent, protected the basic assets of Germany from dissipation and, at the same time, was of tremendous benefit in protecting properties of victims of discrimination and of foreign owners. During the period that properties were under control, they were managed in a business-like manner. Plans were worked out during this period of control, providing for the orderly return of such properties to the German economy, and for the accomplishment of Military Government objectives.

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Numerous difficulties were encountered in accomplishing the Property Control Program. During the early days of the Program, most of the experienced and well trained military personnel were redeployed. It is felt that some program could have been established whereby the services of such well trained personnel in Property Control matters could have been retained during the most active phase of taking properties into custody.

Capable custodians were, in many instances, difficult to obtain. It would have been of immeasurable assistance if foreign owners of properties in the territory occupied had been required, at the time they were listing their assets in Germany (Form TFR-500), to name persons qualified to manage their properties. Such lists could then have been distributed to Property Controllers at the appropriate time. Similar arrangements could have been made with other Allied countries.

The task of returning absentee owned properties to their owners was rendered difficult. Here again, a better job could have been done if owners had been told, at the time they were listing their foreign assets, and recommending their custodians, that Military Government would ultimately release the properties, if taken into custody, to the agent named, at such time when Military Government considered the time appropriate.

When the time came for the disposition of the various categories of properties under control, numerous laws, directives, etc., had to be devised and promulgated. In many instances, the time required in obtaining the necessary concurrences of other interested Divisions of Military Government took as long as nine months. It is believed that valuable time could have been saved if representatives of other Divisions, especially the Legal Division, had been permanently attached to the Property Control Branch, to work along with them in the preparation of such implementation, and if such representative had sufficient authority to concur for his particular branch of Military Government. The above observation, of course, has no reference to the unavoidable delays caused by obtaining concurrences where required of other occupying Powers.

In the field of denazification, approximately 75,000 properties belonging to Nazis or accused Nazis were taken into custody. Many of these properties were small, private homes and dwellings. As of 30 June 1949, approximately 1600 Nazi properties had been confiscated. It is felt that the denazification objective could have been reached, with much less difficulty, by restricting the taking into custody of Nazi properties to large and strategic enterprises. Blocking controls were adequate to prevent wholesale dissipation of the remaining properties pending final disposition of the denazification trials.

As a whole, it is believed, that future Military Government historians will consider the work of the early planners of the Property Control Program and of the subsequent responsible officials as having been extremely successful.

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Property Division, OMGUS

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 UNITED STATES AREA OF CONTROL

ANNEX XXII

LAW NO 19

DISPOSING OF PROPERTIES IN THE UNITED STATES ZONE OF
 OCCUPATION AND THE UNITED STATES SECTOR OF BERLIN
 HAVING BELONGED TO THE FORMER GERMAN REICH AND TO THE FORMER GERMAN
 STATES, LAENDER OR PROVINCES (INCLUDING THE STATE OF PRUSSIA)

Whereas it is desired to clarify title to property located in the United States Zone and the United States Sector of Berlin which, on 8 May 1945, belonged to the German Reich or to any of the German states, Laender or Provinces (including the State of Prussia); and

Whereas it is deemed expedient to provide for the disposition of such property;

IT IS HEREBY ORDERED AS FOLLOWS:

ARTICLE I

1. All property in the United States Zone of Germany and, subject to the provisions contained in Article XIV, paragraph 18 hereof, all property in the United States Sector of Berlin, which on 8 May 1945 was owned directly or indirectly by the German Reich or any of the German states, Laender or Provinces (including the State of Prussia), the disposition of which has not heretofore been authorized, or provided for pursuant to Military Government legislation, is hereby seized. All rights, interest and title in and to such property are vested in the Military Government for Germany (US) and are herewith disposed of as provided by this Law.

ARTICLE II

2. The Minister President (in Bremen the President of the Senate: in Berlin the Oberbuergermeister), or such other official as may be designated by him, is hereby designated and authorized to effect necessary transfers of title pursuant to the provisions of Article IV, paragraphs 4 and 5; Article V, paragraphs 7 and 8; Article VI, paragraph 10; and Article VII, paragraph 11.

ARTICLE III

3. The use of property by the Occupation Forces shall not be deemed to prevent the transfer of title according to the provisions of this Law, but such use shall continue until the property is released by the Occupation Forces.

ARTICLE IV

4. Subject to the provisions contained in Article VII, paragraph 11 hereof, Reich property seized under Article I hereof which consisted of

- a. Buildings, together with all fixtures and furnishings, the normal principal use of which was the housing of offices of the Reich Government;
- b. Property devoted to the uses of the customs, public health and weather services; lighthouses and other navigational aids; and fisheries;
- c. Property devoted to the uses of the Reichsbahn, the Reichsautobahn, the Reich Waterways, and the Reichspost (except as provided in paragraph 5 below); and
- d. Property devoted to the use of the War Pensions System (Kriegsversorgungswesen) and other mutual benefit or insurance systems,

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is hereby transferred to the Land in which such property is situated (or, if situated in the United States Sector of Berlin, to the City of Berlin), as trustee, in trust for such German State above the Laender as may be recognized by the US, UK and French Military Governments. During the period of trusteeship, presently existing arrangements regarding the possession, management and use of the properties described in this paragraph will be continued, unless other arrangements therefor are made as may be deemed suitable by Military Government or the appropriate German authorities. Such of the property described in this paragraph as may be designated by the legislative body of such German State as may be recognized shall, subject to the approval of Military Government, be finally transferred to that German State. As to property not so designated and property the transfer of which is not so approved within one year after the creation of the German State herein referred to, the trust shall terminate at that time, and the Land in which it is located (or, if located in the United States Sector of Berlin, the City of Berlin), shall have full ownership thereof.

5. Property of the former Reichspost used directly or indirectly for the purpose of radio broadcasting on 31 December 1948 is hereby transferred to the public service broadcasting institution organized in each Land pursuant to German legislation. In the event that no public service broadcasting institution, eligible to receive such property, is in existence on the effective date of this Law in a given Land, such property is transferred to the Land as trustee, in trust for a public service broadcasting institution eligible to receive such property. The Land shall transfer the property to such institution immediately upon its coming into being.

ARTICLE V

6. Title to property seized under Article I hereof which was owned on 8 May 1945 by any of the then-existing German states, Laender or Provinces (including the State of Prussia), part of all of whose territories are now embraced within the specified area, as defined in Article XII and herein-after referred to as the "specified area", is hereby vested, except as provided in Article VI, paragraph 10 hereof, in the Land in which such property is located on the effective date of this Law (or in the City of Berlin, if located in the United States Sector of Berlin).

7. Where a corporate entity, the majority interest in which was owned by the German Reich or any of the former German states, Laender or Provinces (including the State of Prussia), has property located within, but has its seat outside the specified area, such property shall be transferred to the Land in the specified area in which it is located, as trustee, in trust for a new corporation. Such corporation shall be formed one year after the effective date of this Law, or at such earlier date as may be approved by Military Government, by the Land within the specified area having the greatest participation in the old corporate entity. The stock or other indicia of ownership of the new corporation shall represent the value of all the assets of the former corporation located within the specified area and shall be distributed among the Laender thereof in the same proportion that their stock in the old corporation related to the entire stock of the old corporation outstanding in the specified area.

8. If no Land in the specified area is found to have had a participation in the old corporation, the trust shall terminate one year after the effective date of this Law, and the Land in which the assets are located (or if located in the United States Sector of Berlin, the City of Berlin), shall have full ownership thereof.

9. Privately-owned minority interests in the old corporations shall be dealt with in accordance with a plan to be approved by Military Government.

ARTICLE VI

10. Title to property located on the effective date of this Law in the United States Zone of Germany and in the United States Sector of Berlin, consisting of works of art, cultural objects, statues, and appurtenances of museums, having belonged on 8 May 1945 to the German Reich or to any of

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the German states, Laender or Provinces (including the State of Prussia), whose territories lie principally outside the specified area, is hereby vested in the Land where such property is located (or in the City of Berlin, if located in the United States Sector of Berlin), as trustee, in trust for the German State, referred to in Article IV, paragraph 4 hereof, and shall, after the formation of such German State, and upon the order of Military Government, be transferred by the agents designated in Article II hereof to such State. Until the time of such transfer, present arrangements will be continued or such other arrangements will be made for the care and custody of such property as may be deemed suitable by the appropriate authorities.

ARTICLE VII

11. Notwithstanding the fact that it may have been used by the Reich for any of the purposes enumerated in Article IV, paragraph 4 hereof, property seized under Article I hereof, which subsequent to 30 January 1933, was acquired by the German Reich or by any of the former German states, and, was taken from a trade union, cooperative, political party or any other democratic organization, is hereby transferred to the Land in which said property is located (or to the City of Berlin, if located in the United States Sector of Berlin), as trustee, in trust for the former owner; or, where no existing organization is completely identical with the organization which was the former owner of the property, for a new organization or organizations approved by Military Government, whose aims are similar to those of the former owner. The agents designated in Article II hereof shall as soon as possible, transfer title to such property to the former owner or successor organization. The transfer of property to such organizations shall be made in the manner provided for the transfer of properties of Nazi organizations by Control Council Directive No. 50, Military Government Law No. 58, and laws and instructions in implementation thereof.

ARTICLE VIII

12. Title to property seized under Article I hereof, the disposition of which is not otherwise provided for in this Law, is hereby vested in the Land in which such property is located (or in the City of Berlin, if located in the United States Sector of Berlin).

ARTICLE IX

13. Recipients of property pursuant to this Law shall be liable for, and may be called upon to pay charges against the property, existing at the date of transfer, up to an amount equal to the value of such property.

ARTICLE X

14. The following categories of property are exempted from the operation of this Law:

a. All cultural and historic archives and public, private or ecclesiastical documents or records relating to activities, rights, claims, treaties, constitutions, etc., of families, corporations, communities, churches or states, which subsequent to 1 September 1939 were removed from an area of Germany other than the specified area;

b. Reichsmark credit balances with financial institutions in the specified area, including Reichsmark credit balances which originated solely from the deposits of old currency banknotes subject to surrender in accordance with Military Government Law No 61 (Currency Law), extinguished by the operation of Military Government Law No 63 (Conversion Law);

c. Properties owned directly or indirectly by the German Reich and used for, or in connection with the production, distribution and exhibition of motion picture films;

d. Properties of the iron, steel and coal industries, subject to Military Government Law No. 75

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ARTICLE XI

15. For the purpose of this Law, property shall be deemed to be located at the place of its normal situs.

ARTICLE XII

16. The "specified area", as referred to in this Law, shall mean the Laender Bavaria, Bremen, Hesse, Wuerttemberg-Baden, and the United States Sector of Berlin. Upon the enactment by the respective Military Governments of legislation which is determined by the Military Government for Germany (US) to be similar to this Law, the specified area shall include Niedersachsen, Nordrhein/Westphalen, Schleswig-Holstein, Hansestadt Hamburg, Baden, Wuerttemberg/Hohenzollern, Rheinland/Pfalz, and the British and French Sectors of Berlin, in all cases as constituted on 1 September 1948.

ARTICLE XIII

17. Unless otherwise ordered by Military Government, the Minister President of each Land (in Bremen the President of the Senate; in Berlin the Oberbuergermeister) or any appropriate officials designated by him, shall issue the legal and administrative regulations necessary for the implementation of this Law.

ARTICLE XIV

18. Property having the nature of public utilities, which is located in the United States Sector of Berlin and which is part of an economic unit situated and operating in more than one Sector of Berlin, including, but not limited to, properties of the Reichsbahn, the Reichsautobahn and the Reichspost, shall not be affected by this Law except pursuant to Orders or Regulations under this Law which may be issued by the Office of Military Government for Germany (US).

ARTICLE XV

19. Any legislation inconsistent with any of the provisions of this Law is hereby repealed.

20. The German State, referred to in Article IV, paragraph 4 hereof, may set aside any disposition of property to the Laender, pursuant to this Law, when such disposition is contrary to that which may be provided for in the basic law of said German State, when such basic law becomes effective.

ARTICLE XVI

21. This Law becomes effective in Bavaria, Wuerttemberg-Baden, Hesse, Bremen, and the United States Sector of Berlin on 20 April 1949.

BY ORDER OF THE MILITARY GOVERNMENT